Appropriations.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith Senate Bill No. 476, being a bill for "An Act to provide for the ordinary and contingent expenses of the state government until the expiration of the fiscal quarter after the adjournment of the next regular session of the General Assembly," without my approval as to the following item, to-wit:

To the Governor, for improvements and repairs at the Executive mansion, the sum of $15,000.00.

And all the residue of said bill I hereby approve.

My reason for disapproving the item above set forth is, that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

The specific appropriations for the next two years should not exceed $15,000,000, because the specific appropriations for the past two years did not exceed $13,500,000. The specific appropriations for the next two years should not exceed those of the past two years by more than one and one-half million dollars. I find that the last five general assemblies before this one, namely, the 42nd, 41st, 40th, 39th and 38th, were content to increase the specific appropriations by approximately $1,000,000 each. (It is true that the 41st did exceed its predecessor by over one and one-half millions, but that was the exception; the 42nd (two years ago) provided an increase of only $750,000 approximately.) This amount was too small. Had it been what it should have been, we would not be embarrassed now. The mistake was then made of providing no new buildings.

If precedents are to be observed at all, or if former general assemblies and executives are to be accredited with any wisdom at all, it is proper that the present general assembly and the present executive should follow the good and recent example set before them, and confine the specific appropriations of this general assembly to $15,000,000.

It will be observed that I speak only of specific appropriations. I use this phrase because there is one very large appropriation which is not specific in amount. This is the appropriation for the salaries and expenses of members of the general assembly and for the salaries of the state officers whose salaries are permanently fixed by statute, instead of by appropriation. This appropriation is always the same, namely, $1,000,000 or so much as may be necessary. Originally, doubtless, this appropriation read "$1,000,000 or so much thereof as may be necessary," the supposition being that less than one million would be necessary. But in recent years no word "thereof" appears, and accordingly, not only the $1,000,000, but far more than $1,000,000 is paid out under this appropriation, which has the appearance of being, at first glance, an appropriation for a million only. During the two years just expiring, the sum of approximately one million and four hundred thousand dollars will be expended, all told, under this appropriation. In other words, the additional four hundred thousand dollars is really appropriated, although in a certain sense not specifically appropriated. While this appropriation is specific enough to be, without a doubt, legal, it is not specific enough to induce the average man to estimate it at more than $1,000,000. It follows from what I have said, that the appropriations for the two years just expiring were not only the $13,250,000 specifically appropriated, but included in addition, the amount of approximately $400,000 expended under this commonly called "million dollar appropriation for salaries"—in other words, the total expenditures, for the two years just expiring, amount to, not $13,250,000,

but to $13,650,000. This fact renders it all the more necessary that the appropriations which are in fact specific be reduced in amount.

It should be pointed out in passing, that if the present specific appropriations should be allowed to stand, and the expenditures under the million dollar appropriation for salaries should be as heretofore, and to this should be added the salaries of members of the general assembly, and also the salaries of judges, the expenditures would reach the unprecedented total of $16,435,000.00, as follows:

Specific appropriations, approximately	$15,500,000.00
Salaries in excess of the $1,000,000 salary fund, approximately	400,000.00
Additional salaries to members, approximately	204,000.00
Additional salaries to judges, approximately	331,000.00
	$16,435,000.00

This amount would be an increase over the expenditures of the past two years, under appropriations both specific and otherwise, ($13,650,000.00,) of nearly three million dollars—or, speaking more accurately, $2,785,000.00.

From the foregoing figures, I am confident that no duty resting upon me is more imperative than to make the reductions this day made.

When, several days ago, I filed a message vetoing the bill providing for an increase of salaries for the members of the general assembly (which carried with it an increase of $204,000.00 every two years,) I stated that the total of specific appropriations for the ensuing two years, exclusive of said members' salaries, would be fifteen and one-third millions of dollars ($15,333,000.00,) I find that this estimate was too low. Now that I have all the appropriation bills before me, I find that they appropriate not the sum of fifteen and a third, but the sum of fifteen and a half millions of dollars $(15,500,000.00,) exclusive of the salaries of members and the salaries of judges.

Having heretofore vetoed the bills carrying with it the increase of $204,000.00 for the next two years, for the salaries of members, and having also heretofore vetoed the bill carrying with it an increase of $115,500.00 per annum ($331,000.00 in the two years) for the salaries of judges, making a total of $535,000.00 for the ensuing two years, (neither of which amounts were included in the specific appropriations,) it now becomes my duty to endeavor to save $465,000.00 out of the $15,500,000.00 specifically appropriated. After a very close examination of all the appropriation bills, I find that this can be done and it is very gratifying to find that it can be done without vetoing a single item of absolute necessity. Many of the reductions which the liberality of the general assembly compels me to veto, are desirable, and moreover, are wholly proper, but I believe there is not one which cannot be delayed for at least two years.

The appropriations approved will include the Vicksburg, Shiloh and Bickerdyke monuments, the Douglas statue, the Fort Massac restoration, the new home for one thousand boys, new cottage for the soldiers' orphans, new cottages for the girls' school at Geneva, a new farm building to accommodate seventy-five patients at the insane hospital at Kankakee, new cottages to accommodate 1,000 patients at the insane hospital at Bartonville, a new building to accommodate 380 patients at the insane hospital at Watertown, a new small school building at the school for the deaf, a new library for the Southern Normal school at Carbondale, a new woman's building at the state fair grounds, a new building at the state university, a new cell house at Pontiac, a new hospital at Chester, proper support of the departments of the Secretary of State and other elective state officers (whose entire appropriations I have left intact,) proper support of the twenty-five subordinate branches of the executive department, such as charitable, health, insurance, military and railroad, and also proper support of the twenty state institutions, penal, reformatory, educational and

charitable. In addition to all these, it is not to be forgotten that it has been necessary to include in the penitentiary appropriations for the ensuing two years, an additional sum approximating $335,000, for the penitentiary at Joliet, (for the purpose of dispensing with the present unconstitutional system of leasing the labor of convicts, from which the state now receives $135,000.00 per annum, and instituting in lieu thereof a new system for which the state is to pay out $200,000.) A provision for the same purpose is made for the penitentiary at Chester, involving an additional expenditure of $110,000. I believe that this additional total appropriation of $445,000.00 for instituting the new system and replacing the revenue lost by the abandonment of the old one, is entirely too much, and that not one-half of these additional sums will be needed; but I cannot criticise the general assembly for making this provision. It was the only the safe thing to do, and if an error has been made, it has been made out of an abundance of caution, and for no other reason.

All things considered, the departments and institutions and all the divisions of the business of the state, in other words the business of the people, will (notwithstanding the reductions I have felt compelled to make,) proceed without being cramped or hampered in any way. And if any complaint arise, because of any of the many items which I have vetoed, it must nevertheless be conceded, that approximately 3,000 insane persons are now in the almshouses of the state, and that Illinois is caring for only 7,000 insane persons while New York cares for 22,000 (although New York's population is not even double that of Illinois,) and that 1,000 boys need the school at St. Charles, and that 2,000 applications are now on file for admission to the Asylum for Feeble Minded Children, and that the recognition of the veterans of the Seige of Vicksburg is forty years behind the time. It therefore must be conceded that the many items which have been vetoed are at least more capable of indefinite

postponement than those which have been approved.

Attention is called to the fact that some of the items disapproved in the bills for institutions and departments, are items which can very properly be charged against the ordinary expense or repair account. For instance, why should $20,000.00 be appropriated for the woman's prison at Joliet? The woman's prison is not a separate institution, but merely a part of the penitentiary. A female offender, when convicted, is not sentenced to the woman's prison as a separate institution, but to "the penitentiary at Joliet." The law specifically so provides. It will be found, upon examination, that not a few of the items vetoed, can with due and strict economy, be provided for in this way.

Very respectfully,
RICHARD YATES,
Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith without my approval, Senate Bill No. 436, being a bill for "An Act to provide for the repair of the State Capitol building at Springfield, Ill., and making appropriations therefor." The amount involved is $235,833.00.

My reason for disapproving this bill is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

Very respectfully,
RICHARD YATES,
Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith without my approval, House Bill No. 848, be-

ing a bill for "An Act making an appropriation for the Western Illinois State Normal school."

My reason for disapproving this bill is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

The amount involved in this bill is $100,000.00. It is for the purpose of completing the third floor of the new main building. This improvement is very desirable. But it is not indispensable.

Very respectfully,
RICHARD YATES,
Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return this bill, House Bill No. 89, being a bill for "An Act to make an appropriation for the ordinary and other expenses of the Illinois State Normal university at Normal, Ill.," without my approval as to the following item, to-wit:
For greenhouse and school garden....$5,500.00

And all the residue of said bill I hereby approve.

My reason for disapproving the item above set forth is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregationg one million dollars.

Very respectfully,
RICHARD YATES,
Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return this bill, Senate Bill No. 34, being a bill for "An Act making appropriation for the Eastern Illinois Normal school," without my approval as to the following item, to-wit:

For building and furnishing gymnasium $25,000.00

And all the residue of said bill I hereby approve.

My reason for disapproving the item above set forth is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

Very respectfully,

RICHARD YATES,

Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return this bill, House Bill No. 305, being a bill for "An Act making appropriation to the Northern Illinois State Normal school, DeKalb," without my approval as to the following items, to-wit:

For building cement walks $1,952.00
For planting and guaranteeing 800 trees 2,000.00
For plant house for agriculture and horticulture 4,000.00

And all the residue of said bill I hereby approve.

My reason for disapproving the items above set forth is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily in-

volves the disapproval of items aggregating one million dollars.

Very respectfully,

RICHARD YATES,

Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith without my approval, House Bill No. 751, being a bill for "An Act appropriating money to purchase a pine forest in Ogle county, and to constitute the same a forest preserve and public park." The amount involved is $30,000.

My reason for disapproving this bill is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

Very respectfully,

RICHARD YATES,

Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return this bill (Senate Bill No. 26) without my approval as to the following items, to-wit:

To the Northern Hospital for the Insane at Elgin: For cold storage and ice plant	$20,000.00
To the Eastern Hospital for the Insane at Kankakee: For cement walks and curbings, $2,500.00 per annum, total	$5,000.00
For repairing of slate roof, $1,000.00 per annum, total	2,000.00
For iron beds to replace old beds	5,000.00
For pathological laboratory, $2,000.00 per annum, total	4,000.00
For resetting windows	5,000.00
For telephone sytem	3,000.00

To the Asylum for the Incurable Insane at Bartonville: For water system $15,000.00

To Charitable Eye and Ear Infirmary, Chicago: For the purchase of ground, and the construction of buildings for the care of infectious and contagious diseases 75,000.00

To the State Training school for Girls at Geneva: For new chapel 20,000.00

And all the residue of said bill I hereby approve.

My reason for disapproving the items above set forth is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

Very respectfully,

RICHARD YATES,

Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, House Bill No. 426, being a bill for "An Act to make an appropriation for the erection and maintenance of a suitable monument near the village of Hardin in the County of LaSalle and State of Illinois, to the memory of the sixteen men, women and children who were there massacred by the hostile Indians under the Chief Black Hawk," etc., A. D., 1832. The amount involved is $5,000.00.

My reason for disapproving this bill is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for improvements and repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this

reduction necessarily involves the disapproval of items aggregating one million dollars.

Very respectfully,

RICHARD YATES,

Governor.

May 16, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return this bill, Senate Bill No. 351, being a bill for "An Act to make appropriations for ordinary and other expenses of the Illinois State Penitentiary, at Joliet," without my approval as to the following item, to-wit:

For operating and maintaining the woman's prison, the sum of $10,000.00 per annum $20,000.00

And all the residue of said bill I hereby approve.

My reason for disapproving the item above set forth is the same as my reason for disapproving the item in Senate Bill No. 476, appropriating to the governor the sum of $15,000.00 for repairs at the executive mansion, namely: that it is necessary to reduce the appropriations for the ensuing two years, and this reduction necessarily involves the disapproval of items aggregating one million dollars.

The expenditures sought to be covered by this appropriation are very properly chargeable against the ordinary expense account of the institution.

Very respectfully,

RICHARD YATES,

Governor.

May 14, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith this bill (House Bill No. 59,) entitled, "An Act to amend Section 3 of an Act entitled 'An Act concerning fees and salaries and to classify the several counties of this state with reference thereto.'"

This bill provides for increasing the salary of each judge of the Circuit Court of this state,

and each judge of the Superior Court of Cook County, from the sum of $3,500.00 per annum to the sum of $5,000.00 per annum.

As there are in the State of Illinois, outside of Cook County, 17 judicial circuits, each with 3 judges, there are 51 circuit judges without the limits of Cook County. In the County of Cook there are 14 judges of the circuit court, and 12 judges of the superior court. The total of judges affected by this bill is accordingly 77. As the proposed increase of salary of each judge is $1,500.00 per annum, the total additional expense to the State, of this increase of salary, would be $115,500.00 per annum. This would increase the expenditures for the ensuing two years to the amount of $231,000.00 (and for the six years during which the judges to be elected in June next will hold office, to the grand total of $693,000.00.)

Excluding from consideration the grand total of $693,000.00, the point remaining to be considered is, shall the expenditures of the state for salaries of judges be increased during the next two years to the amount of $231,000.00?

I return this bill with my disapproval, simply and solely for the sake of economy and to save expense. As I have already stated in a message disapproving a bill for the increase of salaries of the members of the general assembly, and in another message this day filed, returning the bill for the ordinary and contingent expenses of the state government, and disapproving certain items therein, I find that without any expenditure for increased salaries of members or judges, the grand total of specific appropriations for the next two years just made by the Forty-Third General Assembly is approximately $15,500,000. In addition to this specfic appropriation, there is an inevitable expenditure of approximately $400,000.00 beyond the appropriation for "one million dollars or so much as may be necessary" to pay salaries of state officers. This would bring the total for expenses, exclusive of members' and judges' salaries, up to the sum of $15,900,000 which, in my opinion,

is $1,500,000 more than should be appropriated, in view of the fact that the appropriation of the last general assembly (the Forty-Second) for the same purpose did not exceed $13,650,000.00. Now if, to the above amount of $15,900.000.00 be added the sum of $204,000.00 for additional salary of members of the legislature, and the sum of $231,000.00 for additional salaries to the judges of the circuit and superior courts, the grand total of expenditures will be $16,435,000.00. This would be an increase of nearly three million dollars, or, speaking more accurately, of $2,785,000.00.

I have believed it to be my imperative duty, under all the circumstances, to disapprove the bill providing for additional salaries for members of the general assembly, and to reduce by the sum of one million dollars the specific appropriations amounting to $15,500.000.00. In view of the fact that in order to accomplish this reduction of one million dollars, I have been obliged to disapprove items in the appropriation bills of substantially every institution and department of the state government (except the departments of the Secretary of State, the Attorney General, the Auditor of Public Accounts, the State Treasurer, and the Superintendent of Public Instruction, which appropriations I have deemed it best to leave intact.) I feel compelled to withhold approval from this bill for the increase of the salaries of the judges of the state.

By this disapproval, the judges of the circuit and superior court of Cook County will suffer no diminution of salary, as their compensation amounts to the sum of $10,000.00 per annum, regardless of the amount paid by the state.

But I am deeply sensible of the fact that while my disapproval of this bill will work no reduction in the compensation of judges outside the County of Cook, it will deprive them of an increase which is believed in the minds of many good citizens to be desirable. I have taken occasion already, in a message vetoing a bill which, as it seemed to me, cast some

aspersions upon the judges of the circuit courts of this state, to bear testimony to their high attainments and their high sense of honor and propriety. I do not believe that there is any body of men within the state, who more justly enjoy the confidence of the people; and in common with all other good citizens, I rejoice in the profound deference paid to the judiciary of Illinois by the undivided people. I believe this deference to be well earned, and I would rejoice, were it within my power to be instrumental in securing for these judges, who are not only good officials, but, in many cases, great judges, an addition to their compensation.

It is, however, to be remembered, that the compensation of $3,500.00 is equal in amount to the compensation of the Attorney General, who is the head of the law department of this state, and in many circuits the compensation of $3,500.00 is regarded as ample.

It is undoubtedly true, however, on the other hand, that in many of the circuits, the duties are so arduous that $3,500.00 is by no means a satisfactory compensation, and that the judges are serving at a great sacrifice.

For these reasons, it is with the greatest reluctance, that I file this message of disapproval. As I have said before, nothing but my imperative duty, in the interest of economy, compels me to do so.

Very respectfully,

RICHARD YATES.

Governor.

May 11, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without approval, House Bill No. 195, entitled, "An Act to provide for and fix the compensation of members of the General Assembly of the State of Illinois."

I withhold my approval from this bill, because I do not believe that the financial conditions of the State of Illinois justify this increase of expenditure. The total of its amounts appropriated by the Forty-Third General As-

sembly, as shown by the bills now before me, is in the neighborhood of fifteen and one-third millions of dollars. The expenditures of the past two years, or rather, of the two years ending with the close of the present fiscal year, amount to substantially fourteen million dollars. I am of the opinion that in view of the growth of the state in resources and wealth, and in view of the general disposition of the people of the state, in the matter of caring for the interests of the people, through the various state departments and the various state institutions (charitable, educational, penal and reformatory,) that the increase of one million dollars in the total of appropriations of each succeeding session is not unreasonable, but on the contrary, is justifiable, and will be satisfactory to the people at large. The six general assemblies last past have recognized this, and have appropriated in the neighborhood of one million dollars in each case, more than the preceding general assembly.

I think, however, that until the people of the state recognize even more fully than at present, the greatness of the just demands upon them and upon the state government, an increase of a million and one-third of dollars will meet with their general disapproval. An increase in other lines than the matter of salary has been inevitable at this session. The Forty-Second General Assembly made the mistake of erecting no new buildings for the care of the insane, deaf and dumb, blind, feeble minded, and soldiers' orphans. When it is taken into consideration that insanity is making inroads among the citizens of Illinois to the extent of one per thousand per annum, substatially five thousand person per annum, and that, in spite of all that can be done to care for these unfortunate persons in private homes and private institutions, and in county almshouses, and in the insane institutions maintained by Cook County, there are still enough people becoming insane in any one year in the State of Illinois to fill a vast insane hospital; and when it is taken into consideration that there are now three thousand insane

persons in the almshouses of the state, it is seen at a glance that either a complete new insane hospital will henceforth be necessary every two years, or that vast additions must be made to the institutions now in existence. When, in addition to this, it is realized that the prices of everything purchased, either for food or for wearing apparel, have greatly increased within the past few years, it must be apparent that increased appropriations for the maintaintance of the charitable, penal and reformatory institutions are absolutely necessary.

In addition to the expenses referred to above, a further additional expense has come upon the state, by reason of the demand of the labor organizations, and the laboring men in Illinois generally, for the abolition of the present system of contracting or leasing the labor of convicts. In 1886, an amendment to the constitution was adopted by the people at the polls, prohibiting such leasing, and in the years 1901 and 1902, an agitation was started and developed without opposition, for the enforcement of this provision of the constitution. The Attorney General of the State held (in an opinion which I believe to be good law) that the present system is unconstitutional. This left nothing for the legislature to do but to provide for the abandonment of the present system, and to inaugurate another. This inauguration of a new system has added somewhat to the appropriations.

Furthermore, repairs upon the State House have become necessary, to the extent of nearly a quarter of a million of dollars, and the establishment of a new home for delinquent boys has been proved to be an absolute necessity; while monuments upon the sites of the Siege of Vicksburg were very properly deemed necessary by the members of the General Assembly, as such monuments should long since have been erected upon the site of that siege, in which there were actively engaged more commands from the State of Illinois than from any other state.

In view of all these pressing needs, the appropriations have reached a limit to which I do not feel justified in going, and accordingly some reduction at some point is necessary.

I feel justified in vetoing this bill, because the salaries of members of the legislature have been increased within the past few years. It has not been many years since the salary was fixed at five dollars per day, but in 1895 a law was passed providing that the salary should be one thousand dollars per session. Under the former system, the expense to the state for salaries to members of the legislature did not much exceed one hundred and fifty thousand dollars per session. Under the law now in force, they amount to two hundred and four thousand dollars per session. Under the law as proposed, they would amount to four hundred and eight thousand dollars per session. In view of the fact that a session usually lasts not longer than four months, a total of one hundred and twenty days, including Sundays, and that the legislature is really in session not more than three days per week of the sixteen or seventeen weeks embraced within the session, the actual time expended at Springfield by the average member of the legislature does not exceed fifty working days. A compensation of twenty dollars per day for each day actually occupied, makes the sum of one thousand dollars, the present compensation. It seems to me that this is sufficient for the present. If the ensuing general assembly, which will be free from the expense of inaugurating a new system at the prisons, and from the expense of representing Illinois at the World's Fair, and from the expense of inaugurating the boys' home, and from many other expenses of the present session, shall see fit to provide for the increase contemplated by this act, it may be that such increase will be proper; but it seems to me that if the present general assembly had had two hundred thousand dollars to spare, it would have been far better to have appropriated another hundred thousand dollars to the much needed new home for boys, and an additional hundred thousand dollars to the erection of the

monuments at Vicksburg, bringing the total up to the whole amount really required for the purpose, and really asked for by the hundred thousand veterans of the great struggle of 1861 to 1865, to whose efforts we owe the present majesty of our state and country, together with the liberties of the people of both. When it is realized how earnestly and urgently the executive, together with many other citizens were obliged to request, for example an appropriation for five small cottages to cost five thousand dollars each, at the Soldiers' Orphans' Home; and when it is realized how many other small, but much needed appropriations were refused, it must be realized how wise it is to refuse, for this time at least, approval of the measure adding to the appropriations of the Forty-Third General Assembly, the sum of two hundred and four thousand dollars, as this bill does.

Very respectfully,

RICHARD YATES,

Governor.

Relief Bills.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 136, being a bill for "An Act making an appropriation for the benefit of Jesse Rupert, Quartermaster Sergeant, Battery A, Illinois Light Artillery." The amount involved is twenty-five hundred dollars.

I withhold my approval from this claim because I am informed that it was rejected by the State Court of Claims on March 13th, 1903.

Very respectfully,
RICHARD YATES,
Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 161, being a bill for "An Act making an appropriation for the benefit of Albert Stevens, a private in Battery A of the Illinois Light Artillery." The amount involved is five hundred dollars.

I withhold my approval from this claim because I am informed that this claim was rejected by the State Court of Claims on March 13, 1903.

Very respectfully,
RICHARD YATES,
Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 135, which is a bill for "An Act making an appropriation for the benefit of Charles Balsley, Corporal in Battery A of the Illinois Light Artillery." The amount involved is one thousand dollars.

I withhold approval of this bill, because I am informed that the claim was rejected by the State Court of Claims on March 12, 1903.

Very respectfully,

RICHARD YATES,

Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 128, being a bill for "An Act making an appropriation for the relief of Frederick W. Tierney, for injuries received while under orders of his commanding officer, while serving as a private in Company A, 4th Regiment, Illinois National Guard." The amount involved is one thousand dollars.

The bill recites that this young man was accidentally thrown under a train and injured.

I withhold approval from this bill because I am advised that this claim was rejected by the State Court of Claims on the ground that the injury was caused entirely by the negligence of the claimant.

Very respectfully,

RICHARD YATES,

Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewitn, without my approval, House Bill No. 449, being a bill for "An Act making an appropriation for the relief of and to indemnify Jacob Kubler." The amount involved is fifteen hundred dollars.

I withhold approval from this bill because this claim is now pending before the State Court of Claims.

Very respectfully,

RICHARD YATES,

Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 145,

which is a bill for "An Act making appropriation for the relief of Sergeant Herman Becker, of Troop A, 1st Cavalry, Illinois National Guard, for injuries received while acting as escort for Prince Henry of Prussia, March 2, 1902." The amount involved is fifteen hundred dollars.

I withhold approval from this bill because I think this is a proper matter for consideration by the State Court of Claims, which has the power to examine witnesses and consider evidence, and is therefore better qualified than the General Assembly, to pass upon the justice of the claim.

Very respectfully,
RICHARD YATES,
Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, House Bill No. 402, being a bill for "An Act to pay Henry F. Stow and Martha J. Stow $1,500 on account of the death of their son, George C. Stow, by drowning in the bathing pool at Camp Lincoln, while in the discharge of his duty as a private in Company K, 1st Regiment Infantry, Illinois National Guard."

I withhold approval from this bill because I think that this is a proper matter to come before the State Court of Claims for adjustment. In another bill, duly passed and duly approved, the state has made an allowance to pay several similar awards made by the State Court of Claims. That court has better facilities for ascertaining the justice of this claim by the examination of witnesses, and the consideration of evidence, than the General Assembly has.

Very respectfully,
RICHARD YATES,
Governor.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 160, be-

ing a bill for "An Act to make an appropriation to reimburse John J. Block for losses sustained by him, and to pay him the value of horses killed under the direction of the State Board of Live Stock Commissioners."

This bill recites in its preamble that the horses of this claimant were killed as a precautionary measure, to prevent the spread of glanders, with the understanding that the claimant would be reimbursed by the state.

I have information from the State Board of Live Stock Commissioners, to the effect that an allowance has already been made to this claimant by the Board of Live Stock Commissioners, for one-third of the fair value of the horses in question, and indeed it is admitted by the preamble of the bill that such allowance was made to said Block for one-third of an appraisement made of such horses by the State Veterinarian, which appraisement, however, the preamble recites, was unreasonably low.

I think the approval of this bill would simply open the door for claimants all over the state to apply to the state for a revision of awards made by the State Board of Live Stock Commissioners, and would lead to endless expense. Hence, although the amount is small, I veto the bill.

Very respectfully,

RICHARD YATES,

Governor.

Tax Levy.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I approve this bill with great reluctance. Were it not for the large expense involved, I would veto this bill, and call a special session of the General Assembly, for the passage of another tax levy bill in lieu thereof.

This bill provides that there shall be levied for the year 1903, and for the year 1904, a total of eleven million dollars ($11,000,000.00) in taxes. Of this sum, it is provided that the sum of $4,500,000.00 shall be levied for the general purposes of the state for the year 1903, to be designated the revenue fund, and that one million dollars shall be levied for the same year, to be designated the state school fund, and that the same amount shall be levied for the year 1904. In other words, that there shall be a levy of $5,500,000.00 for each year. The second section of the bill provides that the governor, auditor and treasurer shall annually compute the several rates per cent required to produce not less than the above amounts, and when so ascertained, the auditor shall certify to the county clerk the proper rates per cent therefor. This is the customary and usual provision of the tax levy bill, but it is to be observed that it required the governor, auditor and treasurer to raise the full amount levied by the bill, and they have no option except to levy the total amount.

I am of the opinion that the amount required to be raised by taxation for the ensuing two years will be far less than eleven million dollars. I estimate the total expenditures of the next two years at $14,900,000.00, namely, $13,500,000.00 to be expended under specific appropriation bills passed and approved, and $1,400,000.00 to be paid out as heretofore, under the appropriation apppropriating one million dollars or so much as may be necessary to pay the salaries of members of the general as-

sembly, and other state officers. I estimate the total revenues of the state during the two years to be,

From the Illinois Central Railroad.	$2,000,000.00
From license fees collected by the Secretary of State	1,000,000.00
From license fees and taxes collected by the Insurance Department	800,000.00
From inheritance taxes	1,100,000.00
From miscellaneous sources	500,000.00
Total	$5,400,000.00

This will leave the amount to be raised by taxation, $9,500,000.00. In an estimate prepared both for my office and for the General Assembly, the State Auditor of Public Accounts estimated the total amount of appropriations at $15,000,000.00, and the total revenues at $5,000,000.00, leaving the amount to be raised by taxation only ten million dollars. I cannot imagine why the General Assembly should, in the face of the Auditor's estimates, raise the amount to be raised by taxation to eleven million dollars. As stated above, I am of the opinion that the total amount required to be raised by taxation will not exceed $9,500,000.00, and as I believe that it is not necessary to retain in the state treasury more than two million dollars over and above the total amount of all possible expenditures, I think another million dollars could be safely deducted from the $9,500,000.00 above, leaving the total amount to be levied only $8,500,000.00, or, at the most, nine million dollars.

In other words, I am of the opinion that this bill will bring into the state treasury two million dollars more than can possibly be used in the next two years.

It should, however, be distinctly understood that if this large excess is collected, it of course cannot be used, as there will be no appropriation for the expenditure thereof, so that there will be no loss to the state, and the administration coming into control in the year 1905 will simply have an excessive surplus.

Very respectfully,

RICHARD YATES,
Governor.

Tax to Support Board of Review.

May 13, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 106, being a bill for "An Act to provide additional fees for the collection of general taxes in counties of the third class under township organization."

The purpose of this act is to authorize collectors in the County of Cook to deduct two per cent from all moneys by them collected for incorporated cities, villages and other municipalities in said county, said two per cent so deducted to be paid to the county treasurer, and to be disbursed by him upon the order of the county board, to defray the necessary expenses of the board of assessors and the board of review.

Under this statute, as I understand it, all municipal corporations in operation within the County of Cook, including parks, would be subject to this deduction of two per cent. It is a matter of general and common knowledge that many of these municipalities have revenues that are now inadequate. I am unable to see any reason why they should be burdened with this additional expenditure, or rather deduction of revenue, and for this reason, I disapprove of the bill.

An additional reason for disapproving this bill, is found in the fact that while the bill assumes by its title to provide only additional fees for the collection of general taxes. It not only does this, but it goes further, and provides how these additional fees shall be disbursed and distributed; and under Section 13 of Article IV of the Constitution, that part of the law which provides for the disbursement of the fees collected would be absolutely void, because not included in the title of the act.

Very respectfully,

RICHARD YATES,

Governor.

Boards Nominated by Societies.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 158, being a bill for "An Act to establish a State Board of Dental Examiners, and to prescribe its powers and duties, and to define and regulate the practice of dentistry and dental surgery in the State of Illinois, and to repeal all existing laws heretofore enacted to regulate the same, which may be in conflict herewith."

This is a revision of the entire subject of the state examination of dentists. It is, in many respects, a good bill. There is, however, a vital objection to the bill. In Section 1, it is provided, "The members of said board shall be appointed by the Governor, three of whom shall previously be recommended by the Illinois State Dental Society, and at the time of their appointment to membership upon said board must be legally licensed to practice dentistry or dental surgery in the state."

For the reason set forth in the messages heretofore filed disapproving the bill providing for a board of examiners of nurses, and the bill providing for a board of examiners of embalmers, I withhold my approval from this bill. I am of the opinion, as stated in said messages, that state duties should be performed by state officers, and that a board made up of persons whose appointment is made by a society, and merely ratified by the governor is not a board of state officers, in a proper sense. A board so constituted owes its first allegiance to a society, and thereafter to the state. State officers should owe their allegiance first to the state, and not to any society. Experience has shown that a board composed of persons selected by a society, and whose appointment is merely ratified by the governor, have not that due sense of obligation and responsibility to the state, which, in my opinion, is essential to

the due performance of the duties of their offices. Furthermore, the tendency to permit societies to name boards of state officers is, in my opinion, leading and ending to an actual abuse. Government by society is as objectionable as any other form of government not recognized by the state constitution. If the General Assembly, in their wisdom, believe that a board should not be nominated and appointed by and with the advice and consent of the state senate, then they have it in their power to provide that they should be elected by the people. Furthermore, the constitution expressly states that the General Assembly shall not make any appointment to any office whatever. It is, in a certain sense, an indirect way of appointing officers by the General Assembly, when the General Assembly prescribes exactly whom the governor shall appoint. In my opinion, the constitutional provision which says that the governor shall nominate and appoint, cannot be restricted in any way, except where officers are required to be elected. I do not believe that the legislature has the right to say that a given number of any board shall belong to the dominant party, for instance, or that not more than a given number of any board shall belong to one party; and I do not believe that it has the right to prescribe that a given number of any board shall belong to any given profession or society. If the law creates a board, and does not require that it be elected, then, in my opinion, under the constitution, the governor has the absolute right to nominate and appoint, by and with the advice and consent of the senate, without any restriction whatever. And it follows that any restriction whatever is unconstitutional. It was manifestly the purpose of the constitution not to permit the General Assembly, or any society or profession to hamper the executive in the choice of subordinates. The present executive is willing, and doubtless every other executive will be willing, to listen to proper and reasonable recommendations, and it may be that in the appointment of professional boards, every executive will, in nine cases out of ten, select as members the persons recommended

by the professions affected, inasmuch as the executive will doubtless assume that the profession affected is more interested, and better informed, than any other persons or citizens can possibly be. But the principle of allowing societies to do that which even the General Assembly is absolutely prohibited by the constitution from doing, namely, to dictate to the governor who shall be appointed, is wrong and bad in every sense. The right to say that the governor of the state shall be restricted in his selection to any party or parties, person or persons, association or associations, implies the right to impose restrictions upon him which would practically destroy his independence, and leave him no real power whatever. The right to make one restriction implies the right to make a thousand. The right to restrict him as to one board, implies the right to restrict him to all boards. Hostility on the part of a general assembly, growing out of any kind of a disagreement, might result in the amendment of every law in the state, so that every state board would have to be so selected that not a single trustee or commissioner could really be appointed by the governor. This, of course, would be a very extreme case, and it is a highly improbable proceeding, but it is an entirely possible proceeding. Should such laws be passed and approved by the executive, or passed over his veto, he would be as absolutely powerless as though there were no constitutional provision conferring upon him the power of appointment to office. Fortunately, the constitution itself prohibits absolutely special legislation conferring upon any corporation, association or individual whatever any franchise or exclusive right, and our Supreme Courts have held that the power of appointment to office is a franchise. The bill before me not only tends to carry into effect the wrong and bad principle above mentioned, but is, I repeat, in my opinion, absolutely unconstitutional. In support of my views upon this question, I call attention to the latter part of the decision of the Supreme Court of Illinois, in the year 1899, in the case of Charles W. Lasher vs. The People of the State of Illinois,

and Edward C. Reichwald et al, vs. The People of the State of Illinois, reported in Volume 183, Illinois Reports, page 226, and reading as follows:

"Another ground of objection made to the act is, that the provisions which create a board of inspectors with power to grant licenses, and which require a commission merchant to produce such licenses and impose a penalty for the failure to do so, are void, as repugnant to section 22 of article 4 of the constitution, which prohibits the legislature from passing any law granting to any corporation, association or individual any special or exclusive privileges, immunity or franchise whatever. The provisions in question are special in their nature, and the act names five corporations upon which it confers the power to appoint a board of inspectors to be selected from the membership of such corporations. If the power to appoint such a board of inspectors constitutes a franchise, then there can be no doubt that the legislature had no power to confer such a franchise upon the corporations named in the act. A franchise has been often defined so that the meaning of the term is well settled. Blackstone's definition is: 'A royal privilege or branch of the king's prerogative subsisting in the hands of subject.' (2 Blackstone's Com. 21.) In this country it is a special privilege granted by the state, which does not belong to citizens of the country generally by common right. This is the distinguishing feature of a franchise. A right which belongs to the government when conferred upon the citizen is a franchise. No one can exercise the right of eminent domain, or establish a highway or railway and charge tolls for the same, without a grant from the legislature. Such rights as inhere in the sovereign power can only be exercised by the individual or corporation by virtue of a grant from such sovereign power, and when the State grants such a right it is a franchise. (Board of Trade vs. People, 91 Ill. 80; People vs. Holtz, 92 id. 426.) In the former of these cases the distinction between a franchise and a privilege which be-

longs to the citizen of common right was pointed out, and in the latter case it was said: 'If the constitutional convention and the General Assembly used the term according with its strict legal import,—and we must suppose they did,—then, in this country, it can only embrace corporations, ferries, bridges, wharfs and the like; and we may add the elective franchise, as it is granted by the constitution to a portion of the people to elect their officers.' A franchise must be granted by the legislature, and a municipal body cannot confer a franchise. (Chicago City Railway Co. vs. People, 73 Ill. 541;) Metropolitan City Railway Co. vs. Chicago West Division Railway Co. 87 id. 317. Now, the power to appoint to office in a monarchy is a royal privilege or branch of the king's prerogative. It is an attribute of sovereignty, and does not belong to citizens generally, by common right. Blackstone includes this power among the prerogatives of the king, and says that offices are in his disposal as sovereign. (1 Blackstone's Com. 272.) The power to appoint to office is within the definition of Blackstone, which was adopted in the cases above referred to. In this State the people, in their sovereign capacity, through the constitution, conferred the elective franchise upon a portion of the citizens having certain qualifications, as was said in People vs. Holtz, supra. The General Assembly was prohibited from exercising the power of appointment, and as to certain other officers the following provision was made: 'The governor shall nominate, and by and with the advice and consent of the Senate, (a majority of all the Senators selected concurring, by yeas and nays,) appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the General Assembly.' (Const. sec. 10, art. 5.) Appointment to office is a large part of the official power belonging to the governor, under our constitution, as the chief executive. Under a somewhat similar prohibition against the exercise of the appointing power by the Gen-

eral Assembly, it was held in State vs. Kennon, 7 Ohio St.. 546, that the legislature had no power to confer upon three persons named by the legislature the power to appoint certain officers. No private corporation and no individual has the power of appointment to any office as a matter of common right, and cannot have any such power except by virtue of a legislative grant.

"In People vs. Holtz, supra, it was held that an office is not a franchise, and it is argued that consequently the power to appoint to office is not a franchise, privilege or immunity. It does not follow that because the office is not a franchise the power to appoint to it is not. The power of appointment to an office and the office itself are entirely distinct and of a different nature. A citizen may hold the title to an office and perform its functions, but the power to create the office and designate such functions and fill the office must rest in the government or some governmental agency.

"But it is said that these inspectors are not officers of the State, because they exercise their duties within the limits of cities of more than fifty thousand population, and that we have sustained laws investing officers of the judicial department with the power to appoint local or municipal officers. These inspectors are authorized to perform their duties throughout the State wherever there is a city of more than fifty thousand population. A law applying to cities of such size is considered general, operating throughout the State, because its provisions will apply wherever there may be such a city. These officers are required to report to the Governor each year, their license fees and fees for complaints are turned into the State Treasury, and the expenses are paid out of the State Treasury. Our constitution defines an office as follows: 'An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.' (Const. sec. 24, art. 5.) These officers serve

for the period of one year, and are appointed annually. The board is a State board, and is so described in each indictment. The cases relied upon to sustain this law relate to local and municipal officers, and do not hold that the legislature may vest the power of appointment in private corporations. The power in each case was vested in a branch of the State government. The statute passed upon in People vs. Morgan, 90, Ill. 558, authorized the judges of the Circuit court of Cook County to fill vacancies in the offices of South Park commissioners, and the Election law which was sustained in People vs. Hoffman, 116, Ill. 587, provided that the judge of the county court might appoint election commissioners. The question mainly discussed in those cases was whether the power of appointment could be exercised by the judicial branch of the government, and in each case the law providing for the appointment was adopted by a vote of the municipality affected. With reference to the appointment of South Park Commissioners it was said that the power might, no doubt, be sustained on the ground that its exercise was the act of an individual who was the incumbent of the office of judge; but that statement, if entirely accurate, should be taken with reference to a case where the people had adopted a law containing a provision for such an appointment. The case was decided and the law sustained on the ground that the legislature might authorize a judicial officer to exercise the power as to a local officer. We have not been referred to any case where the legislature has attempted to confer the power of appointment upon a private corporation. So far as appears, such a law is without precedent in this State. In Bunn vs. People, 45, Ill. 397, it was held that the commissioners appointed under the act for the erection of a new State house were not officers but employees of the State, and in Kilgour vs. Drainage Comms. Ill. 342, and People vs. Inglis, 161 id. 256, it was held that the legislature might impose new duties upon officers already elected, and that the imposition of such new duties was

not the appointment of an officer. They have no bearing on the question involved here.

"The board of inspectors provided for by this act are general officers of the State, and it seems beyond question that the power to appoint them is a franchise, which the act in question attempts to grant to five corporations. The legislature was powerless to clothe these corporations with an attribute of sovereignty by granting to them this special privilege. The criminal court was wrong in holding the provisions in question to be valid.

"We see no objection to the first and second sections of the act, which are separable from the invalid provisions.

"The judgments are reversed. Judgment reversed."

I realize that it may be said that the case in which the foregoing decision was rendered, is not a case in point. It is true that in the case passed upon by the Supreme Court, the law attempted to confer upon the Butter and Cheese Exchange, and four other corporations, the absolute power to each name a member of a board; whereas, in the bill before me, the governor may select whom he may please for two of the members, and is only restricted as to the remaining three, and is not deprived of the power of appointment of the remaining three, but is simply required to appoint three who "shall previously be recommended by the Illinois State Dental Society." I think this is no answer. It is the violation of the general policy of the constitution, which the decision above set forth condemns, in my opinion, and a provision which restricts the governor to a list of nominations submitted by a society is as improper as if the provision were to the effect that the society actually appoint the state officers in question. The constitution guarantees to the governor not only the right to appoint, but the right to nominate and appoint. His power to nominate is just as complete and distinct as his power to appoint. We must conclude that the constitution means what it says. It does not say he shall nominate upon the suggestion of anybody, or upon the recommenda-

tion of anyone, or from a list suggested by anyone. It does give him the absolute, outright power to nominate, as well as appoint. If words mean anything at all, the unrestricted power of nomination is conferred upon him by the constitution. The constitution is the fundamental law of the land, higher than any statute, and under every rule of construction and interpretation it must be deemed that its provisions are wholesome. Any statute which undertakes to nullify or abridge any provision of the constitution, must accordingly be considered not only a violation of the constitution, the fundamental law of the state, but also wholly wrong in policy and principle.

Very respectfully,

RICHARD YATES,

Governor.

May 9, 1903.

To the Honorable, the Secretary of State.

Sir:—I return herewith, without my approval, Senate Bill No. 147, entitled, "An Act providing for the examination, registration and licensing of nurses of the sick, in the State of Illinois, and the regulation of institutions which graduate or confer degrees or diplomas on nurses, and the graduates thereof, by the State Board of Health, and imposing a penalty for violations of its provisions."

I veto this bill because I do not believe there was due deliberation in its consideration and passage, and because it is not consistent with the general policy of the Constitution.

As evidence of the fact that it was passed without due consideration, and with lack of due deliberation, I point to the fact that Section 12 of the bill was not inserted by the framers of the original legislation introduced upon this subject, but was inserted at the earnest and urgent request of the State Board of Health and its officers. This section provides that nothing in the act shall be construed to prevent any person or persons from nursing the sick or helpless, either gratuitously or for fee. This provision is so wholesome that its necessity as an exemption is apparent to all. The bill is an act providing for

the examination, registration and licensing of nurses, and without this wholesome exception, it might have been construed into an attempt to prevent persons pursuing the occupation of nursing the sick. This would have been simply an outrage. The law may be well intended, and the framers of it inspired by the highest of motives, as doubtless they are, but it is certainly a question whether too many restrictions should be thrown around such an occupation, and no harm can be done by allowing two years to elapse before imposing the restrictions required by this act. The aspiration to provide the people with competent and educated nurses is commendable, but in its effects and operation, it is very easy to pass beyond proper and wise regulations. Proper and wise regulations are undoubtedly as desirable in this branch of the problem of caring for the health of the people, as in other branches in which the action of the legislature has heretofore been involved, and rightly invoked. But any legislation which tends to discourage ministration to the sick, should, in the opinion of all, be most carefully scrutinized. This legislation may not have this effect; but a doubt must arise in the minds of many good citizens, as to whether this is a subject to which the complicated machinery of examination, registration and licensing, together with the regulating of institutions which graduate or confer degrees or diplomas, should be applied. On the broad ground of public policy, there is sufficient doubt upon this proposition to justify any executive in proceeding with the utmost care. I am not opposed to reasonable legislation on the subject, nor can the people of the state be opposed to it. But more time for the consideration of the matter seems desirable.

In the second place, the bill is objectionable because it provides that "it shall be unlawful for any person who graduates or receives a degree or diploma after July 1, 1904, from any training school, hospital, or other institution (graduating or conferring degrees or diplomas on nurses) which has not been determined in good standing, by the State Board of Health, to advertise or style himself or herself a

trained or graduate nurse in the State of Illinois, unless such person shall have received a license from the State Board of Health, as hereinbefore provided for." The effect of this is to bar from the title of trained or graduate nurse, persons not licensed after examination, who shall have graduated after July 1, 1904, It seems to me that under the language of the law, a person could attend or receive instruction from such an institution, without coming within the prohibition of the section, for any period after July 1, 1904, by simply failing to graduate or receive a degree or diploma. This would appear to defeat the very object of the law.

The most serious objection to the bill, however, is that it is contrary to the policy of the Constitution, because it provides that examinations shall be conducted by a board to consist of the Secretary of the State Board of Health, and three graduate nurses, as to which nurses it is provided: "Appointment of nurses of this committee may be made from nominations submitted to the Board by the Illinois State Association of Graduate Nurses." As I understand it, the Illinois Association of Graduate Nurses is simply a society. It is certainly not a branch of the state government in any way. I can conceive of no reason why an association or society of private citizens should nominate members of a board to conduct a state examination. The State Board of Health is a properly constituted part of the state government, appointed by the appointing power recognized by the constitution, and it is abundantly capable of conducting the examinations provided for. Why it should be sought to supersede such a board in the performance of an act in the interest of, and on the part of, the state, it is difficult to understand. I can trace the reform only to a tendency marked in recent years, and growing more marked with every session of the general assembly, namely, the tendency to provide that various officials and representatives of the state shall be nominated by societies. An act which for some time has been in force, provides that the governor may appoint the State Board of

Pharmacy from a list of nominations submitted to him by the State Pharmaceutical Society. It has been proposed that a State Board of Medical Examiners be appointed by the governor from a list of nominations submitted by the State Medical Society. If the tendency is not checked, it will soon be proposed that the Attorney General be required to appoint the assistant attorney general from a list of nominations presented by the State Bar Association. In other words, there seems to be a decided tendency toward "government by society," which is as objectionable as any other kind of government not recognized by the constitution. The state is filled wtih splendid societies, the members of which are of the best of our citizens, but there is no reason why they should supersede the properly authorized and appointed authorities of the state, appointed by the appointing power recognized by the constitution. The theory of the constitution is, that the governor of the state, by and with the advice and consent of the State Senate, shall nominate and appoint the state officers, and that the state officers shall perform state duties. The performance of said duties by persons who are not state officers, is not contemplated by the constitution, and was not contemplated by the framers thereof. Whenever the people shall deem it wise to commit the performance of the official duties of the state to persons who are not state officers, they may reverse the policy of the present constitution by amending the same. Until then, state duties should be performed by state officers, and not by persons selected or nominated by societies. In my opinion, the language of the law, providing that the appointment of the three nurses who are to be members of the examining board or committee for the registration of nurses, in which the language is used, "Appointment of nurses of this committee may be made from nominations submitted to the Board by the Illinois State Association of Graduate Nurses," is the same in legal effect as if the word "shall" had been used, instead of the word, "may." If this be true, no option whatever is left to the State Board of Health, but they must commit the

duty of examining nurses, which is certainly an important duty, to a committee, over three-fourths of which they have no control, and who, having taken no oath of office, and assumed no official position, are under no responsibility to the state, and have not that official relation thereto which is desirable, and, in my opinion, is essential. I think persons selected to perform such duties should be state officials, and if it is desired that they be not appointed by the governor, or by a board, then it is within the power of the general assembly to provide that they be elected by the people. The tendency to create boards consisting of persons whose selection is absolutely dictated by mere volunteer associations of persons who gather themselves together and constitute a society, is a tendency that should be checked.

In the case of Charles W. Lasher vs. The People of the State of Illinois, and Edward C. Reichwald et al vs. The People of the State of Illinois, decided by the Supreme Court of Illinois in 1899, and reported in 183 Illinois Reports, page 226, the Supreme Court had under consideration a law creating a board of inspectors of commission merchants. The law provided that this board of inspectors should be composed of one member from each of the following organizations: The Illinois State Horticultural Society, the Illinois State Dairymen's Association, the Illinois State Retail Dealers' Association, the Chicago Butter and Egg Board, and the Chicago Branch of the National League of Commission Merchants. The Court held that the board of inspectors provided for by this act, were general officers of the state, and that it was beyond question that the power to appoint them was a franchise which the act in question attempted to grant to five corporations, and that the legislature was powerless to clothe these corporations with an attribute of sovereignty, by granting to them this special privilege. The Court, in rendering the decision, called attention to Section 22 of Article VI of the Constitution, which specifically states that the general assembly shall not pass local or special laws granting to any corporation, association or in-

dividual any special or exclusive privilege, immunity or franchise whatever. It is true that this decision was in a case wherein the legislature had sought to grant to five corporations the power to absolutely appoint the members of a state board who were held public state officers, and that the power of appointment to office was a franchise and it may accordingly be argued that it is not a parallel case, as in this case the legislature has not provided a fixed term of office for the examining board or committee provided for in this act, and, moreover, has not given the Illinois Association of Graduate Nurses the absolute power to appoint, but simply the power to submit a list of nominations. The answer to this is, that the policy and principle violated are the same. The State Board of Health is impliedly prohibited from appointing an examining board from any class of persons other than those nominated by the Association, and this bring about the same result in its effect and operation, as if the power had been given to the Association to absolutely select.

Very respectfully,

RICHARD YATES,

Governor.

May 18, 1903.

To the Honorable, the Secretary of State.

Sir:—I return herewith, without my approval, Senate Bill No. 214, which is entitled a bill for "An Act to amend an act to regulate the practice of medicine in the State of Illinois, and to repeal an act therein named, approved April 24, 1899, in force July 4, 1899, by adding thereto a new section to be known as Section 2 a."

This adds to the law now in force (Medical Act of 1899, Chapter 91 R. S.) in that it provides for an examination in osteopathy, and requires an attendance in an osteopathic college. Section 2 of the law now in force provides for "the examination of those who desire to practice any other system of treating human ailments who do not use medicines internally or externally and who do not practice operative surgery." Under this provision

the State Board of Health has examined and licensed over 350 osteopaths, not as osteopaths, however, but as licentiates empowered to practice osteopathy or any other system of treating human ailments without the use of medicine or surgery, they see fit. This seems to me to provide legislation, the necessity for which is not apparent. Under the medical law now in force, osteopaths are enabled, as stated above, to practice their system of healing in the state. Over three hundred of the three hundred and fifty osteopaths already licensed by the State Board of Health are now practicing, after passing an examination less rigorous than that provided for in this bill. No hardship therefore is imposed on this class of practitioners, and they are deprived of no legitimate privileges. Physicians of all schools are examined and licensed by the State Board of Health, yet the law makes no reference to any school. Osteopaths, magnetic healers and others who treat the sick without the use of medicines are likewise examined and licensed, but nowhere in the statutes can there be found a mention of any particular science, system or method of treatment. Seemingly, therefore, there is no valid reason why those who practice osteopathy should be signalled out and given the benefit of special legislation. (It is questionable, however, whether any real benefits are conferred upon osteopaths by this measure which contains no penal section.)

Another objectionable feature of this bill is the clause which empowers the State Board of Health to "appoint an examiner who shall be a graduate of a recognized college of osteopathy and who shall examine applicants upon the theory and practice of osteopathy. He shall receive therefor Five Dollars ($5.00) and the State Board of Health the balance of the fee." (It is provided in the clause immediately preceding that "the fee for examination and for a certificate shall be fifteen dollars ($15.00,) ten dollars ($10.00) for an examination and five dollars ($5.00) for a certificate if issued.) The promoters of this act undoubtedly had in mind, when framing this section,

the commendable desire to make the examination more practical and correct and appropriate than would be an examination conducted by the State Board of Health in person, in view of the necessarily limited knowledge of the subject of osteopathy, upon the part of the members of the board, who are not engaged in, or familiar with, the practice. It is also to be assumed that the framers of the act had the commendable desire to avoid the creation of a whole board of examiners, and sought to avoid by providing for simply one examiner. I am of the opinion, however, that the board should conduct all examinations, having first obtained all the assistance necessary to frame a perfect list of questions and a perfect system of tests. I see no reason why this should not be entirely practicable. The State Board of Health should not delegate its duties to examiners, in any branch, and all laws providing for such examinations, by examiners, if any such now exist, should be repealed. State boards should be appointed to do state duties themselves, and not perform their duties through other boards or through single examiners.

My especial reason for withholding approval from this bill, however, is that it compels the State Board of Health to grant a license to practice, to every osteopathist who shall have been a graduate of a regular college of osteopathy and who shall have been practicing in this state on the first day of March, 1903, WHO SHALL BE RECOMMENDED TO SAID BOARD BY THE EXECUTIVE COMMITTEE OF "THE ILLINOIS STATE OSTEOPATHIC ASSOCIATION." This is simply another of those attempts at laws, so noticeable and so numerous at the last session, which seek to run the entire machinery of state government by societies, or, at least, seek to subordinate the entire machinery of state government to societies. There is no provision of constitution or statute which compels the state board of examiners for admission to the bar to issue licenses to persons recommended by the state bar association. There is no provision of law that admissions to the National

Guard shall be controlled by the National Guard association. There is no provision that licenses to practice pharmacy be controlled by the State Pharmaceutical Association. There is no provision that licenses to teach shall be controlled by the State Teachers' Association. There is no provision that licenses to homeopathic physicians shall be controlled by the State Association of Homeopaths—nor is there, to my knowledge, any other provision controlling at the behest of societies, admission to the practice of medicine or healing. The State Board of Health should not be thus hampered. The law itself should specify who shall be exempt from examination, and not leave any part of the question of exemptions to any society.

I am far from any intention of casting any reflections or aspersions upon the practice of osteopathy, or the practitioners thereof. I believe that those who pursue this practice are doing great good, and are rapidly earning, and justly earning, the confidence of the people.

Very respectfully,

RICHARD YATES,

Governor.

May 11, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, House Bill No. 245, being "A bill for an act providing for the regulation of the embalming and disposal of dead bodies, and for a system of registration and licensing of embalmers, and imposing penalties for the violation of any of its provisions."

This bill prohibits any person from embalming or preparing for transportation or burial, or otherwise disposing of any body dead of a contagious or infectious disease, or embalming any body, or holding himself out as practicing the art of embalming, without first applying for and obtaining from the State Board of Health a license. It provides that there shall be an examination and license fee of five dollars, and that examinations shall be held at least twice yearly, after proper notice. It further provides that the examination

shall be conducted by a committee appointed by the State Board of Health, consisting of three licensed embalmers, and two physicians, who shall receive for their services the sum of ten dollars per diem and expenses during the examinations, and that one of the persons so appointed shall "hold office for one year, one for two years, and three for three years, two of whom shall be physicians," vacancies caused by death, resignation or removal to be filled by the State Board of Health; all appointments to fill vacancies caused by expiration of term to be for a period of three years. It is also provided that the State Board of Health shall "have power to remove from office any member of said committee for neglect of duty or incompetency."

It seems to me that this board (called "committee") is entirely unnecessary. Embalmers are now licensed by the State Board of Health. I see no reason why there should be an additional board created, wtih additional expense, for this purpose. It is true that it is provided that the expenses of the board shall be defrayed out of the receipts for license fees. This might obviate any additional expenditure of state funds. Whether this would ultimately be so, however, is doubtful, as possibly if this law be allowed to remain intact, the Board of Embalmers might apply to future legislatures for appropriations. I am of the opinion that the State Board of Health is fully competent and willing to perform all the duties required by public policy and the due preservation of the health of the people, without the creation of this board.

Another objection to this statute is, that it seeks to provide a board for the performance of state duties, which board is not composed of state officials, in the proper sense of the term. This bill is not so objectionable in this particular as the bill providing for the examiners of nurses, inasmuch as this bill provides that the board (called "committee") is to be a board appointed by state officials, whereas the board provided for in the act concerning examination of nurses, was required to be selected, with the exception of one mem-

ber, from a list of nominations made by a certain society; and inasmuch as the members of this board for the examination of embalmers would, if this bill should become a law, hold for the fixed term of three years, they would undoubtedly be held by the courts to be state officers, if the courts should uphold the law at all. It would therefore follow that they would be obliged to take the oath of office required by the constitution and statutes, and accordingly they would have, in part at least, due realization and recognition of their relation to the state, and their responsibility thereto. The fact still remains, however, that this is a board of officers appointed to office, holding office, and subject to removal from office, under a system not recognized by the constitution. The constitution provides that "the governor shall nominate, and by and with the advice and consent of the Senate, a majority of the senators selected concurring by yeas and nays, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the General Assembly." In construing this section, the Supreme Court of Illinois, in the case of Lasher vs. The People, reported in 183 Illinois, page 226, say: "Appointment to office is a large part of the official power belonging to the governor under our constitution, as the chief executive. Under a somewhat similar prohibition, against the exercise of the appointing power by the General Assembly, it was held in State vs. Kennan, 7 Ohio State, 546, that the legislature had no power to confer upon three persons named by the legislature, the power to appoint certain officers." Continuing, the Illinois Court says: "The board of inspectors provided for by this act are general officers of the state, and it seems beyond question that the power to appoint them is a franchise which the act in question assumes to grant to five corporations. The legislature was powerless to clothe these corporations with an attribute of sovereignty by granting to them this special privilege." I

think this point clearly and forcibly applies to the act before me, which seeks to grant to the State Board of Health the power to appoint officers. If the legislature of Ohio had no power to confer upon three persons named by the legislature the power to appoint certain officers, and if the decision of the Supreme Court of Ohio, meets with the approval of the Supreme Court of Illinois, then it follows that the legislature of Illinois has no power to confer upon the persons who constitute the State Board of Health the power of appointment to an office for the term of three years, and the power of removal from such office. That it is sought to make these employes officers, is clearly apparent from the fact that the act says that they shall "hold office" and "may be removed from office." In the case of Lasher vs. The People, the Illinois Supreme Court say, in reply to a suggestion that the board of inspectors of commission merchants referred to in said decision, were not officers of the state, that "these inspectors are authorized to perform their duties throughout the state, wherever there is a city of more than fifty thousand population," and "these officers are required to report to the governor each year," and "these officers serve for the period of one year and are appointed annually," and "the board is a state board and is so described in each indictment." These statements are all equally true of the board sought to be provided for in the act before me. It is a board of general jurisdiction throughout the state; the officers who are members of the board are required to report to the State Board of Health on the 30th day of September of each year, and they are to hold office for the term of three years. The board is undoubtedly a state board.

I am of the opinion, as was stated in the message disapproving the bill providing for the board of examiners of nurses, that state duties should be performed by state officers appointed by the appointing power recognized by the constitution, or state officers elected by the people. If the legislature, in their wisdom, are of the opinion that it is not proper

that a board of state officers holding office for the term of three years should be appointed by the governor, by and with the advice and consent of the state senate, then they should provide that such officers be elected by the people.

The doctrine and policy of having a state board appointed by and removable by another state board, is a new departure in Illinois. I do not believe it to be wise, and accordingly withhold my consent from this bill.

Very respectfully,

RICHARD YATES,

Governor.

Judges of Courts.

May 12, 1903.

To the Honorable, the Secretary of State.

Sir:—I herewith return, without my approval, House Bill No. 170, entitled "An Act prohibiting Judges of Circuit and Superior Courts from acting as attorneys."

This bill provides that "it shall be unlawful for any judge of the circuit or superior court in this state to practice law in any court in this state, or to act as attorney or counsel for any person in this state."

I withhold approval from this bill because it seems to me that it casts something of a reflection upon the judges of the circuit court of this state. It assumes and implies that were it not for this provision, circuit judges would habitually engage in the practice of the law before one another, in county or appellate or superior courts. I do not believe this to be the case. The State of Illinois has a body of judges of the highest attainments and highest sense of honor and propriety. They habitually dignify the positions which they fill, and justly enjoy the absolute confidence and profound deference of the people. It is a part of the ethics of the noble profession of which they are the most exalted and conspicuous members, not to represent litigants in causes on trial in the courts of one another, or in other tribunals. The ethics of the profession are more sacred to them than to even the profession at large. They are not to be suspected of violating these cherished principles or of departing from their time-honored impartiality. Hence this bill is unnecessary, to say the least. It cannot be conceived that the General Assembly intended to cast any aspersions upon the judicial department of the government, nor can it be concluded that it intended to pass an unnecessary law. I therefore conclude that it acted with haste or inadvertence, or want of deliberation, and I act accordingly.

Very respectfully,

RICHARD YATES,

Governor.

Clerks of Courts.

May 13, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, House Bill No. 144, being a bill for "An Act to amend Section 6 of an act entitled, 'An Act to revise the law in relation to clerks of courts,' approved March 25, 1874, in force July 1, 1874, as amended by an act approved June 17, 1895."

This bill, according to its title, purports to be an act to revise the law in relation to clerks of courts, but in fact it applies not only to clerks of courts, but also to treasurer, sheriffs and recorders. The purpose of the bill is to enable clerks of courts, and also treasurer, sheriffs and recorders, to close their offices at five o'clock in the afternoon, except as to clerks in the County of Cook, who are required to keep their offices open during such hours each day, and on such days, as may be ordered by the rule of the court in such county, which rule may be changed from time to time by the court.

The provisions of the act plainly do not come within the title of the act, except as to clerks alone. By no possible construction can the provisions referring to treasurers, sheriffs and recorders be held to be the law of the state. On the contrary, such provisions will be held to be void by the express provision of the Constitution, contained in Section 13 of Article IV of the Constitution, reading as follows: "No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be embraced in the title, such act shall be void only as to so much thereof as shall not be so embraced and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act."

Under this wise provision of the Constitution, the provisions in this act, as to treasurers, sheriffs and recorders, would be void, notwithstanding the approval of the executive, but the provision with reference to clerks would be valid. However, upon the approval of this law, it would be printed in all revisions of the statutes of the state in full, and would lead to much confusion and misunderstanding, to the detriment of the business of the people of the state, and of the due performance of the duties of all the officers mentioned.

All things considered, I am of the opinion that whatever inconvenience may be caused by the postponement until another session of the provision in regard to clerks, would be much less than the inconvenience caused by the approval and publication of an act, three-fourths of which would necessarily be held to be absolutely void, were the question ever raised.

Very respectfully,
RICHARD YATES,
Governor.

State's Attorneys.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, House Bill No. 220, being a bill for "An Act to amend an act entitled 'An Act in regard to attorneys general and state's attorneys,' approved March 26, 1874, in force July 1, 1874, by adding thereto a new section, to be known as Section 6 a."

I withhold approval from this bill, because it is an exact duplicate of another bill having the same title and effect, which I have approved.

Very respectfully,
RICHARD YATES,
Governor.

Administrators.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, House Bill No. 275, being a bill for "An Act to amend and revise Section 107 of Chapter 3 of an act entitled 'An Act in regard to the administrations of estates', approved April 1, 1872, in force July 1, 1872."

This act re-enacts Section 107 of the present law concerning the administration of estates, with the insertion of the additional words, "together with an abstract of the title to the lands to be sold," which words are inserted in the provision which authorizes the court to make a decree for the sale of real estate to pay debts, together with the "expenses of administration."

It seems to me that this statute is entirely unnecessary, as I am of the opinion that if, in the opinion of an administrator or executor, the obtaining of an abstract of title would bring about a sale of real estate to better advantage, the court, upon proper application or representation being made thereto, would allow the same as a just charge against the estate, and as a proper part of the expenses of administration, without this statute.

Very respectfully,

RICHARD YATES,

Governor.

Investments by Trustees.

May 15, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 156, being a bill for "An Act concerning investments by trustees."

This bill permits investments of trust funds by trustees to be (when not otherwise provided by the will, deed, decree, gift, grant or other instrument creating or fixing the trust,) in the bonds of the United States, or of any of the states of the United States, or in first mortgages upon real estate in any state, or in the bonds of any county, city or municipality in any state, or in the dividend paying stocks or interest bearing mortgage bonds of any corporation of any state, which have acquired such reputation that cautious and intelligent persons invest their money in such stocks or bonds.

It seems to me that this provision will have a tendency to deprive the investments in question of that degree of security which is essential. It is true that our statutes relating to conservators provide that the conservator may put and keep his ward's money at interest upon security to be approved by the court, or invest the same in United States bonds, or other United States interest bearing securities, and that under this provision, a court might approve an investment upon real estate, or even personal security. It is, however, to be noticed that when the statute refers to the subject of bonds, the investment is confined to "United States bonds or other United States interest bearing securities." The statute concerning guardians and wards, however, provides that the money of the ward may be kept at interest upon security to be approved by the court, or "in United States bonds, or in the bonds of any county or city which are not issued in aid of railroads, and where the laws do not permit said counties or cities to become

indebted in excess of five per cent of the assessed valuation of property for taxation therein, and where the total indebtedness of such county or city does not exceed five per cent of the assessed valuation of property for taxation at the time of such investment." Both as to conservators and guardians, personal security is allowed only for loans not exceeding one hundred dollars.

The bill before me departs from this wholesome restriction by adding the provision that trust funds may be invested by trustees under wills, etc.; "in the dividend paying stocks or interest bearing mortgage bonds of any corporation of any state, which have acquired such reputation that cautious and intelligent persons invest their money in such stocks."

In the limited time at my disposal for consideration of this measure, I have not been able to convince myself that this new provision is sufficiently wise and cautious.

It is true that it is further provided in the proposed statute, that the action of the trustee shall be submitted to a court of record upon a bill or petition filed for directions. I am, however, of the opinion that even with this safeguard, there would be danger of investment in the interest bearing mortgage bonds or dividend paying stocks of corporations of distant states, as to the value of which, in the great rush and press of business in the large cities of our state, the judges of courts of record might not have accurate knowledge, and that the result would be an investment of doubtful propriety, without the due security which it seems to be the general policy of all our laws to require.

It is possible that as to trusts created by wills, circuit courts may now follow the practice in some portions of the state of approving investments in dividend paying stocks or interest bearing mortgage bonds of corporations of distant states, but I do not think that such a practice should be given the sanction of an express provision of law.

Very respectfully,

RICHARD YATES,

Governor.

Parole System.

May 18, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, without my approval, Senate Bill No. 481, being a bill for "An Act to amend Section One (1) of an act entitled 'An Act to revise the law in relation to the sentence and commitment of persons convicted of crime, and providing for a system of parole and to provide compensation for the officers of said system of parole,' approved April 21, 1899, in force July 1, 1899."

This law seeks to amend what is commonly known as the Parole Law, by restoring the old system whereby the jury in criminal cases fixes the term of imprisonment. The amendatory act now before me, however, does not interfere with the power of parole granted to the State Board of Pardons by what is known as the Parole Law. For example, should a man be convicted after the passage of this amendment, of a crime punishable by imprisonment in the penitentiary, and his term of imprisonment should be fixed by the jury at three years, such prisoner could not be detained in the penitentiary for a longer period than three years, but he could be paroled at any time within the three years, by the Pardon Board, after the expiration of eleven months of good conduct.

Some very able arguments have been addressed to the executive, both orally and by letter, in behalf of the proposed amendment. One of the reasons urged for the amendment is, that the present system, involving the indeterminate sentence, takes a great deal more of the time of courts and causes a great deal more expense to counties, than would be the case if there were a determinate sentence, for the reason that many prisoners now demand trial and prefer to take their chances before a jury, rather than plead guilty and consent to an imprisonment, the length of which is with-

in the discretion of the State Board of Pardons and Parole. Another reason is that under the present system, a jury, in order to avoid placing a prisoner at the mercy of the Board of Pardons, will give him a jail sentence, instead of of a penitentiary sentence,, by finding him guilty of an offense punishable by imprisment in jail, instead of an offense punishable by imprisonment in the penitentiary. In this connection, it is urged that sometimes a jury will absolutely acquit a man accused of crime, rather than to place him at the discretion of the state board. Another reason urged is, that the court and jury before which a prisoner's case is on trial, for days or possibly weeks, are better qualified to determine from all the facts and circumstances appearing in evidence, the period of imprisonment.

All of these reasons have impressed me strongly, and they appeal to me forcibly, and accordingly, I have taken full time for their consideration.

However, I withhold my approval from this bill, for the same reason for which I have this day signed the amendment to the Torrens act, namely, that I believe that any system which has been adopted by both houses of the general assembly, and approved by the governor of the state, and sustained by the Supreme Court of the state, should be given a fair trial. This parole system is a comparatively new system in our state. It did not go into effect until a few years ago. It has, undoubtedly, had a good effect in very many cases. It has undoubtedly kept away from this state many habitual criminals. It is today, undoubtedly, leading to the reformation of hundreds of convicts. It is being used by the Board of Pardons with more and more discretion, and with more and more of mercy, as the years go by. It is a system abreast of the times. It has in view the reformation of prisoners. It is in accordance with the spirit of the age. It was passed in compliance with a spirit of true reform. It is still in its experimental stage. Ten years, at least, should be allowed to determine whether it has serious faults. Until that time, I do not think it should be disturbed by an

amendment such as that proposed in this bill. I believe that the very members of the legislature who passed the bill, will agree with me when I say, that it did not have in either house of the general assembly, that full and complete discussion and deliberation which it should have had. It passed in the closing days of the session, in a time of great confusion and haste.

Very respectfully,

RICHARD YATES,

Governor.

Torren's System of Land Title Registration.

May 18, 1903.

To the Honorable, the Secretary of State.

Sir:—I have the honor to return herewith, WITH MY APPROVAL, Senate Bill No. 123, being a bill for "An Act to amend Sections Seven (7) and Eighteen (18) of an act entitled 'An Act concerning land titles,' approved and in force May 1, 1897."

This is an amendment to the "Torrens law," which is a statute designed to simplify the transfer of real estate, and to save time, energy and expense, especially as to abstracts of title and examination thereof. This amendatory act attempts to extend the scope of, and make more popular and encourage the use of, and increase the popularity of, the provisions of the law now in force, providing for registration of land titles, commonly called the "Torrens system." Now it is right to widen the scope of any system, and encourage the use of that system, and increase the popularity of that system, if the system is right. All the presumptions are to the effect that the system is right. It was adopted by both houses of the general assembly in the year 1897. It was then approved by Governor Tanner. It was then, in Cook County, submitted to the people at the polls. It was then and there adopted by the people. It has never been adopted in any other county. But it has never been rejected in any other county. It has been approved by the Supreme Court. Hence, I repeat, it is right to assume that the system is right. It follows, as stated above, that it is right to widen, encourage and increase the system, provided the people, on a direct vote, can pass upon the means, and the means used are constitutional. A popular vote is provided by a referendum clause. But it is contended by some that the new amendment is unconstitutional, because: first, it is com-

pulsory, that is, compels some persons to register; second, it confers chancery jurisdiction upon the county court; and third, it is discriminative, compelling only executors and administrators to register. I think the objection as to compulsion is untenable; very many of our laws are compulsory. I think that the power given to the county court to excuse the executor or administrator from registration, upon a showing being made in court that such registration would be a hardship, is a wise provision, and not unconstitutional. I have some doubt of the justice or wisdom of providing that executors and administrators, and they only, shall be compelled to register, as it would seem that when a citizen dies, after having refused, all his life, to register his property, his wife and children ought not to be plunged, without their consent, into the system which he has so avoided, while living citizens are not so compelled. It would have been more considerate to have selected another class than the widows and orphans, even though it be for their ultimate and substantial good, as I believe this will be. This is an objection which no doubt will be raised in the courts, and is the strongest point against the bill. But it is to be observed that no executor or administrator except one or two trust companies, and no widow or orphan, has appeared before me, or in the press, to object to this law. On the other hand, while several hundred objections by mail have been forwarded to me, an equal number have been forwarded urging passage of the bill. If executors and administrators as a whole leave the discussion of this matter to real estate men and abstract men, it would seem there can be no serious objection in the minds of such executors and administrators. However, the whole question of who shall be counted for, and who shall be counted against, the bill, is covered by the provision that this amendment shall be submitted to the vote of the people in any county which has adopted the original law (meaning Cook County.) All things considered, I am of the opinion that either this extension of this Tor-

rens law ought to be given a trial, at the polls, and before the courts, or the Torrens law ought to be repealed. If it is an absolute failure, it ought to be repealed. Nothing but the absolute failure of the law, or its positive rejection by the people at the polls, ought to repeal a law, once held to be good by legislature, governor, courts and people. The question of rejection at the polls is of course reserved for the people, and is for them to decide, and not for me. But I connot conclude from the arguments addressed to me, that the law is an absolute failure. On the contrary, I find it to have been a success in other countries, and that it leads in Cook County, in real estate transactions, to ease, safety, dispatch and economy. If this new extension is approved by the people, and sustained by the courts, so many pieces of property will be registered within two years, that it can no longer be argued that banks and brokers will not consider registered lands good security; and thousands of living citizens will also register.

Very respectfully,

RICHARD YATES,

Governor.

Parks.

May 12, 1903.

To the Honorable, the Secretary of State.

Sir:—I return herewith, without my approval, House Bill No. 126, entitled, "An Act to authorize the city council of cities to open streets through parks in certain cases."

I withhold approval of this bill at the request of the Board of West Chicago Park Commissioners, who state that the purpose of the bill is to open Division Street in the City of Chicago, through Humboldt Park, the purpose being to establish a trolley line on such extension of said street. Such opening and such use thereof would effectually cut off the South end of this great and beautiful park, and be a source, not only of annoyance, but of danger, to individuals frequenting or visiting the park, and, in short, would be a lasting and substantial injury. I am satisfied that the great mass of citizens residing in the Western part of the City of Chicago desire this park to be kept (as do the West Park Commissioners) both inviting and intact.

Very respectfully,

RICHARD YATES,

Governor.

The Vicksburg Commission.

Springfield, Ill., April 8, 1903.

To the Honorable, The Senate:

Pursuant to an Act of the General Assembly approved May 11, 1901, I had the honor to appoint the members of the Commission therein authorized.

The duties devolving upon said Commission under the said Act, were to ascertain and mark the position occupied by Illinois troops in the Siege of Vicksburg. These duties have been

faithfully performed by said Commission, so far as it was practicable within the limits of $2,000.00 appropriated by the General Assembly for that purpose.

The report of that Commission, showing in detail the work done by it, was submitted to me at the beginning of the present session of the General Assembly, and is now in the hands of the binder having the contract thereof, and will be laid before the members of the Senate and House of Representatives for their information and consideration.

The Commission has ascertained from the official records that in the memorable siege of Vicksburg the State of Illinois furnished to the Army of the Union in that most brilliant and effective military campaign of the Civil War, seventy-nine separate regiments, batteries, troops and commands, besides the large number of citizens of this State who served in the Navy under command of Admiral Porter during the campaign covering the investment and siege of that most notable confederate stronghold.

In order to appropriately mark the several positions occupied by the troops from this State at many different points along the Union line of investment from the point where the Union Army commanded the Mississippi River and the City of Vicksburg on the north, extending around the entire city in front of the confederate fortifications to a point on the river west of the Warrenton Road to the south of the city, the Commission has estimated that the sum of $250,000 is necessary to complete the work and carry out the objects expressed in the Act of the General Assembly so approved May 11, 1901.

I have given the work of this Commission, the subject matter of its appointment, and the objects and purposes for which it has asked this appropriation, earnest and careful consideration. I most heartily approve and commend the work done by its members, and sincerely urge upon the General Assembly the appropriation of the amount estimated to be necessary to complete the patriotic purpose of the legislature in authorizing its creation.

Suitable bills are already under consideration by the committees on appropriation in the Senate and House of Representatives respectively, and while I do not doubt the friendly interest of the members of the General Assembly to consider these bills favorably, I esteem it both a duty and a privilege to commend and request prompt and favorable action, upon the bills now pending, at the present session.

As was said by the martyred President in his ever memorable speech at Gettysburg, "The world will little heed nor long remember what we say here, but it will never forget what they did here," so it may be said of the brave and gallant men who fought and struggled and suffered on the field of Vicksburg and in the campaign which resulted in its capitulation to the Union forces, that their deeds and heroism will endure forever.

The campaign of Vicksburg with its wonderful successes, and all of the lasting advantages resulting to the nation from those splendid achievements, was due to the almost matchless abilities of General Ulysses S. Grant; and the soldiers of the Union Army who had volunteered from the State of Illinois, during that campaign and siege, bore a most conspicuous and memorable part.

Illinois was there represented by more than twice the number of regiments, batteries and other military organizations there engaged from any other state in the Union, and in the matter of leadership the men from Illinois were pre-eminent.

It is now conceded by students of military campaigns, that the one which, under the command of General Grant, compelled the surrender of more that 31,000 veteran soldiers, within the strongest military fortress erected by the confederate forces during the Civil War was, in both conception and detail, almost without parallel in the annals of warfare. It was a campaign organized and carried on by the citizen soldiery of our Republic. Every man of the number which made up the aggregate of the Union forces was a volunteer without compulsion and every heart was loyal to the national Union, and to the flag which was its emblem.

The fall of Vicksburg was the first decisive demonstrations that the Union of the states, as our fathers had created it, should endure and that armed opposition to the rightful dominion of a national government over every foot of the soil of the United States could not prevail.

It is difficult for me, and I realize that it may be difficult for many of you, who in your department are joined with me in directing the affairs of the great commonwealth of Illinois, to realize the full measure of the sacrifices made by our fathers and brothers during the momentous struggle from 1861 to 1865 for the purpose of preserving the Union of these states.

Up to the day when Vicksburg surrendered, fear was in the way; doubt as to the final triumph of the Union Arms was everywhere present; courage faltered, and faith weakened in the stoutest hearts; but when Grant and his heroic army had achieved the results which flowed from the capture of Vicksburg, the clouds of adversity which had hung like a pall over the nation began to disappear. All hopes were strengthened, faith in all loyal hearts was renewed, courage took on the form of valor, and from that hour the battle went bravely on, without defeat or substantial disaster, until at Appomattox peace dawned upon a nation redeemed.

The building of durable and appropriate monuments to mark the places where brave men have struggled and fallen on the line of duty in defense of their country and its institutions, is not only the highest privilege of patriotism, but the most impressive evidence that succeeding generations appreciate both the value and necessity of heroic deeds.

The brave deeds of forgotten men have made a world for us, and the smallest tribute due from those who have benefited by noble daring and brilliant achievements is to mark upon imperishable lines the place where such deeds were done and such achievements attained.

Civilization has not yet led the race of man to that exalted station where the use of an armed and trained military force is not a necessity to organized society. The day of universal peace may be ushered in when the na-

tions "shall beat their swords into plowshares and their spears into pruning hooks," and when "nation shall not lift up sword against nation, neither shall they learn war any more," but there is no promise from the past that heroic deeds and heroic men will not be the best heritage of a noble national life.

I most fervently trust that our generation will not hesitate to offer willing tribute to the noble men who fought and fell, and who by deeds of heroism conquered—not a people, but a Peace, which has brought to us priceless benedictions.

Nearly forty years have rolled by since the loyal and brave men whose deeds we now have most fitting opportunity to honor, finished their work; the time for us to perform our duty is at hand. Shall we who were taught in infancy to lisp the names of loyal men, who at the risk of all that was most dear to them, accomplished so much for us falter in the performance of what seems to me, should be esteemed a most grateful duty.

Very respectfully submitted,

RICHARD YATES,

Governor.

Restoration of Ft. Massac.

Springfield, Ill., April 22, 1903.

To the Honorable, The Senate:

I respectfully invite your attention to a Bill pending before your Honorable Body, providing for the purchase of the site of, and the restoration to former conditions as far as desirable, of old Fort Massac, and for the opening of it to the public forever as a place of entertainment and pleasure.

The Bill appropriates $10,000 or so much as may be needed therefor, for these purposes. I have given the subject matter of the Bill my careful consideration, and I am prepared to, and do, recommend its passage.

Illinois was once a widespread debatable land where the advancing forces of American civilization met and vanquished the retiring forces of barbarism allied with those of European powers who at last surrendered with reluctance this great State into the control and sovereignty of the American Union. Formerly there were numerous sites of those early struggles with their varying fortunes; but one by one they have yielded to the irresistible progress of our people and the destroying power of time. The site of Fort Dearborn is covered with business houses, and a great commerce passes upon the river where its palisades were formerly established. Kaskaskia and Chartras have been obliterated, and scarce a vestige remains of those villiages. The Post at Peoria has been lost to all except tradition and history. Every other frontier place and demarkation has disappeared except this one alone.

Fort Massac was established as a trading post more than two centuries ago. It has been occupied successively by Spaniard, Indian, Frenchman, Briton, and last of all by the American. A great deal that is interesting in the history of the Ohio Valley, and the growth of our people centers there. The present Presi-

dent of the United States, writing before his elevation to his high office, in his "Winning of the West," has done very much toward collecting and preserving the history and the traditions that pertain to Fort Massac. It was the object of solicitude by Washington when he was president of the United States; it was a point of rest for George Rogers Clark and the gallant band of frontiersmen under his leadership. Here the American flag was for the first time displayed upon the soil of Illinois. The old Fort, changed by its successive occupants, at last took the form of a bastion outwork which is situated adjacent to the City of Metropolis in Massac County, upon a bold eminence underlaid with rock, which rises some 80 feet above the River Ohio, and from which a view may be obtained of 20 miles up and down that historic and beautiful stream. The earthworks, builded a century ago, in place of the ruder structures of earlier times, have been preserved by the growth of grass from general demolition. But the old lines and bastions, the well and magazine of the Fort are still preserved. In and about the Fort are growing stately forest trees that mark its antiquity, and add their beauty to the place.

In the course of years the property itself has passed into private ownership, and the flourishing town of Metropolis has grown up to the border line of the old Parade ground, not encroached thereon.

To turn to another branch of the subject: The Daughters of the American Revolution is a society that exists for the purpose of restoring fraternal relations between all the people of the United States, and restoring to the contemplation of the people those scenes and places and relics and memories which tend to revive the recollection and fact that we are a people of common origin and must be a people of common destiny. Under the inspiration of this society and at their request other communities and commonwealths have taken action tending to the re-establishment of revolutionary and ancient monuments. This society is doing noble work. Its membership extends into every state of the Union. It embraces a great array of

those of our sisters who have been and are the ministers of peace, affection and of patriotism. In our own state they have established many chapters, and their membership here embraces a long list of women of whom the state is very proud, who are interested in its civic greatness, and who are tax payers to its treasury.

In their National Convention assembled at Washington in 1902, they passed a resolution directing their presiding officer to appoint a committee to confer, among others, with the Governor of the State of Illinois in reference to the Daughters of the American Revolution in Illinois "becoming the custodian under the supervision of the State, of Old Fort Massac, one of the oldest historic monuments in the country." Such Committee was appointed and entered upon its duties, and as the result of their labors the Bill now pending before you, and to which I call your attention, was introduced into the General Assembly.

I heartily commend its provisions to your favorable action. Of all existing structures which have come to us from the past, this is the most interesting left in Illinois. It is intimately associated with that which is heroic and great in the early settlement and conquest of the Northwest from the savage and from foreign foes. It represents the sacrifices, the disappointments, and the successes of 200 years of American and frontier life. If anything in the past is worth preserving, this is, because of its antiquity and its long and varied history. It is a monument of the best purposes of our frontier civilization, and of the heroic determination of its former possessors. It is the last monument in the State of Illinois, of those brave days of old.

I respectfully submit that all people in all ages and in all countries under a natural impulse of our kind, have sought to preserve the scenes and incidents of great struggles and great events; that the study of those struggles has a wider and deeper interest when prosecuted in the presence of those things which memorialize them, than as mere abstractions without a tangible resting place. And it seems to me that if on our far, quiet, Eastern border, on the

tract over which our first pioneer life entered Illinois, we can perpetuate in so simple and inexpensive a manner as is proposed by the Bill, a great landmark of the time and the men that made Illinois what she is, and what she has been, it will be a lesson in patriotism and in gratitude that will amply repay all that we may do by the proposed appropriation.

Very respectfully,

RICHARD YATES,

Governor.

Street Railways.

May 18, 1903.

To the Honorable, the Secretary of State.

Sir:—I hereby approve this bill (Senate Bill No. 40,) commonly known as an act to enable the City of Chicago to have municipal ownership of street railways. I have taken in this case the full time guaranteed by the constitution to the governor for the consideration of bills, namely, ten days from the date of the adjournment of the legislature, excluding Sundays. I have no apologies to offer for having taken this time. I am of the opinion that I would have been recreant to my duty, had I not done so. The Traction question, as it is commonly called, has been agitating the people of Chicago, and to some extent the people of other cities, for fully six years. There has been earnest and widespread discussion of the subject in all parts of the state, and by three out of the four of the general assemblies last past. The 40th General Assembly passed a bill commonly called the Allen Law, which granted to cities the power to grant street railway franchises not exceeding the term of fifty years. This act was followed by so much complaint, and such general indignation over the long franchises therein provided, that it was repealed. The days and months during which it was under discussion, both at the time of its passage, and at the time of its repeal, were filled with great excitement, agitating the great city of Chicago, and all parts of our state, in the most serious and vital manner. It seems to me, therefore, that it was without doubt the wisest course, for the present executive to take ample time for the fullest consideration of the bill now before me.

I felt so deeply the gravity of the situation, and the importance of the question, that the day after the bill was passed and came to my desk, I requested the presiding officers of the

two houses, and a number of the most prominent and influential members thereof, to use their influence to bring about a postponement of the final day of adjournment of the Forty-Third General Assembly, for at least a week, in order that if it seemed necessary to return this and other bills wtihout my approval, the General Assembly might have an opportunity to pass upon the same, and either correct such errors as might be pointed out, or pass the same over my veto. This request the General Assembly, in its discretion, as it had the perfect right to do, refused. I was then confronted by the alternative of either signing or vetoing the bill within twenty-four hours after it had reached me, or by taking the full ten days allowed to me under the constitution.

In spite of the importance of the question, and the history of this class of legislation, I have been criticised in certain quarters, for not having at once, immediately upon the receipt of the bill, attached my signature thereto. As evidence of the motives which impelled me not only to act without haste, but also to act with the fullest consideration, I point to two vetoes which, in the years 1863 and 1865, respectively, the then governors of Illinois filed in street railway cases, both these vetoes showing conclusively that the governors of that day did what I believe the governor of this day ought to do, namely, scrutinize most carefully such legislation.

In 1863, the then governor, in vetoing a street railway bill said:

"I deem it my duty, after a careful consideration of its provisions and the circumstances under which it passed, to return it to the Senate (the body in which it originated) with my objections to its becoming a law. * * *

"One of the uses of the veto power is to arrest hasty and immature legislation, and to protect the people, as well as the rights of individuals, from the effects of fraud and misrepresentation in the enactment of laws. * * *

"The Federalists upon the subject of a negative by the executive, says, 'The primary inducements in conferring the power in question upon the Executive is to enable him to de-

fend himself; the secondary is to increase the chances in favor of the community against the passage of bad laws through haste, inadvertence or design.' * * *

"The oftener a measure is brought under examination, the greater the diversity in the situation of those who are to examine it, the less must be those errors which flow from want of due deliberation, or of those mis-steps which proceed from the want of a common passion or interest. * * *

"In the case in question it certainly is not too much to say, as a sufficient reason for the exercise of my constitutional prerogative of a negative, that the bill passed the Senate through either haste, inadvertence or design or want of due deliberation; and that in a case of such vast interests for so long a time, that I should exercise my constitutional powers to protect the community from measures which the legislature itself upon mature reflection, might condemn, and at least give the General Assembly and the people interested, an opportunity so to examine and perfect the bill as to remove its objectionable features and make the enterprises proposed to be constructed a blessing and a convenience to the people as well as profitable to the company which builds them. * * *

"But there are other objections. * * *

"For these reasons I return the bill. The public may have to submit to some temporary inconvenience from delay until further legislation can be had, but in the meantime the people will have the opportunity of inquiring into and discussing the provisions of this or any other bill which may be fairly submitted to the Legislators, and of forming a matured judgment on a subject in which they and the prosperity of the City of Chicago are so deeply interested."

In the year 1865, another executive (who had the splendid and rare distinction of serving three terms as Governor of Illinois, and in addition as Senator of the United States, and as Major General in the armies thereof,) in vetoing a bill providing for a ninety-nine year franchise, said, among other things:

"The bill for 'An Act concerning horse railways in the City of Chicago,' passed by the General Assembly of the State of Illinois, and presented to me for approval, is most respectfully returned to the House of Representatives, in which house it originated.

"In stating my objections to the bill, I may, (in great deference to the General Assembly, from whom I feel it my duty to differ,) be allowed to say it would have been far more consonant to my feelings to have found myself able to have arrived at the same conclusion at which your honorable body did in considering and passing upon it. Standing alone in the magistracy of the powers of one of the great departments in our State, I have hesitated for a long time before venturing to oppose the conclusions of my own mind to your deliberations; and in the act of doing so, I am strengthened and encouraged by the wise and liberal provisions of our constitution, guarding and protecting the rights of the public and the individual in subjecting to review and reversal any action of mine by a majority of the members elected to the legislature.

"I do not approve the bill because, by its first section, it extends the franchise vested by the first section of the act of February 14, 1859, and February 21, 1861, to a period of ninety-nine years. * * *

"I have not, gentlemen, in submitting these views to you, been controlled by any wish to influence the action of any one, but solely by my desire to explain the motives of my own action on this bill."

It is to be observed that both of these executives of the long ago were not deterred from exercising the veto by large majorities. The veto of 1863 was in the face of a vote of

53 to 5 in the House, 17 not voting:

20 to 0 in the Senate, 5 not voting:

while the veto of 1865 was in the face of a vote of

66 to 3 in the House, 6 not voting:

22 to 1 in the Senate, 2 not voting:

The veto of 1863 was never passed upon by the General Assembly of that day, but the veto of 1865 was overridden by a vote of 55 to 22

in the House, and 18 to 5 in the Senate. At this day and date, the wisdom of both vetoes is universally admitted and applauded. All of which goes to show that wise and careful executives have not dared, under their oaths, to suppress their own convictions simply because of large majorities, and that large majorities may sometimes be wrong—though with the best of intentions—and lend to a bad measure such overwhelming support as to require executive intervention, in the exercise of which intervention the executive himself acted with the greatest reluctance and consideration, although wtih the greatest firmness.

To my own mind, nothing can possibly be clearer, than that there devolves upon the executive at this time the imperative duty of examining with the greatest solicitude and concern, any and all street railway legislation, utterly regardless of what criticisms may be subsequently directed against him, by either the press or the people, and regardless likewise of the fact that the legislation in question may have passed both houses of an able, wise and painstaking general assembly. This duty would devolve upon the executive, were he the first ever to confront such legislation, or were he, for that matter, the first executive. Especially fortunate, however, is an executive, when in the great stress and strain inevitably involved in confronting such a situation, he is enabled to strengthen his resolution and fortify his position by such stern and faultless logic as is contained in the two vetoes above referred to.

I am especially desirous of having it known that I am not indifferent to the gravity of the situation. The street railway question (with its ramifications) is today, as it always hase been, and probably always will be, of the greatest moment to the millions of citizens of the city of Chicago. Inadequate provisions for local transportation of passengers constitute a great hardship, and of this hardship the great mass of the people of Chicago, if any comments or protests whatever are to be believed, have reason to now thoroughly complain. The duty of all officials,

whether of the city or of the commonwealth, to grant relief from this hardship, or at least such relief as may lie within their power, is imperative. But it should also be considered, and will, I believe, be considered by every fair minded citizen, that it is better to go slow, and take time, rather than to plunge into conditions, the effect of which will be mischievous and dangerous, or the effect of which may be mischievous and dangerous. I am not ignorant of the magnitude of the street railway systems in the city of Chicago. No absolutely accurate data on street railways in Chicago have been published recently. Two or three statements which have been made public differ somewhat. Some of them give miles of streets occupied by street railways, and some give miles of single track. From all sources published, the following statement seems to be substantially accurate:

The first street car franchise was granted to three private individuals in August, 1858, for a street railway on the south side. A south side company was chartered the following year.

The number of miles of street covered by track January 1, 1890, 90 miles. On January 1, 1898, approximately 430 miles of streets in Chicago were occupied by street railways, including surface and elevated. That is, in the thirty odd years from 1858 to 1890, only 90 miles of streets were occupied by street railways, and in the eight years from January 1, 1890, to January 1, 1898, 340 miles of streets had street railways built in them.

In April, 1900, according to data which I have collected from the best sources possible at that time, there were 573 and 59-100ths miles of streets occupied by surface railway, including cable, electric and horse cars. This was the number of miles of street including both single and double track, and figured as to miles of single track, the number of miles were as follows: Cable, 83 and 29-100ths; electric, 728 and 61-100ths; horse, 12 and 28-100ths. In addition at that date, there was about 30 miles of elevated railway in operation. Since then there has been about 10 miles additional put

in operation. The figures as to elevated tracks I have been unable to verify. All elevated traction has been changed from steam to electricity.

The first permit to any line to operate by electricity in the city of Chicago, was made in 1892. The two large companies in Chicago had no electrical lines in operation before 1893, and none were in operation in West Chicago until 1895. Every street railway now being built is to be operated by electricity. More than nine-tenths of the street railways, both elevated and surface, are operated by electricity. The cable first came into use in Chicago in the early 80's. First permit was granted in 1881.

The three old companies, now consolidated into two, each pay an annual car license fee of $50.00, to be computed on the basis of thirteen round trips, made, as equivalent to one car. Total license fee paid, and public improvements made or paid for by street railway companies to January 1st, 1898, was $1,461,415. All of this has been paid since 1880. Substantially all of these fees have been paid and work done by the three old companies, south side, north side and west side. These three old companies now pay approximately $100,000.00 a year to the city, as follows: License fees, $60,000.00; electric lighting, $35,000.00; operation of bridges, $2,000.00. Practically all of the surface track franchises are now owned and controlled by the two companies, the south side company, which owns and operates tracks on the south side, and the Union Traction company, which owns and operates tracks on the north and west sides. Recently the Union Traction company have bought the surburban lines also, so that now practically all of the lines in the city of Chicago are owned by these two companies. The Calumet Electric on the south side is in the hands of a United States receiver.

There are five different companies interested in the elevated roads, and it is quite possible that these roads should be considered from a different standpoint than the surface lines.

All of the franchises granted surface roads

in the city of Chicago, have been for twenty years' duration. It has been claimed by some of the street railway companies, but never seriously insisted upon, that in getting a continuation for some of their franchises, the grant was for much longer than twenty years, but the city authorities have always insisted that none of these grants have been for longer than twenty years, and the question has never been passed on in the courts. My own judgment is, that the decision of the courts will be, that no franchises have ever been granted for longer than twenty years.

This data shows that the changes in street railway in the city of Chicago, and especially in methods of operation, have been very rapid in the last few years. The probabilities are, that no more cable lines will be constructed, and that in the near future the present cable lines will be changed to some other motive power. It is impossible to tell what changes may take place in ten or twenty years.

The present legislation is precipitated by the fact that some of the existing franchises are about to expire. I have examined with the utmost care the act before me. At the risk of using too many words, I here insert an analysis or synopsis of the provisions of the act, which it seems to me is fairly accurate:

ABSTRACT OF THE MUELLER BILL.

Under its terms a city may:

1. Own street railways.

2. Construct, acquire and purchase street railways.

For either purpose may issue bonds, when authorized by the affirmative vote of 2-3 of the voters voting on the question.

The bonds not to exceed in amount the cost of the property to the city, with 10 per cent added.

May purchase or condemn existing street railroads.

But in no valuation of street railway property for the purpose of any such acquisition, except street railways now operated under existing franchises shall any sum be included as the value of any earning power of such prop-

erty, or of the unexpired portion of such franchise granted by said city.

In lieu of issuing bonds the city may issue street railway certificates on the affirmative vote of a majority of the voters voting thereon, for the cost of the property and 10 per cent added. Such certificates to be secured by mortgage or trust deed, which may include a grant for twenty years from the possession received by any party acquiring the property on foreclosure suit, with a fixed rate of fare for such twenty years, and a default in interest for twelve months enables the owners of a majority of the certificates to declare the whole amount due.

3. To maintain street railways out of earnings.

4. To operate street railways when authorized by the affirmative vote of 3-5 of the voters voting on the question.

In case of operation, the fare shall be high enough to pay for maintenance, operation, interest on bonds or certificates, and to create a sinking fund to pay bonds or certificates.

5. To lease street railways to a company organized for the purpose of operating street railways for any period not longer than twenty years. The rental reserved in any such lease shall be based on both the actual value of the tangible property, and the franchise contained in the lease, and shall not be less than a sum sufficient to meet the annual interest on all outstanding bonds or street railway certificates issued by said city on account of such street railway.

(Note) That this rental is not required to be large enough to raise a sinking fund to pay and retire the bonds or street railway certificates as they become due.

The term of such lease may be for twenty years, or less. If for five years, or less, a vote of the people is not permitted nor required. If for more than five years, the lease shall not go into effect until sixty days after the passage of an ordinance authorizing it to be made. If within that period ten per cent of the voters petition to have it submitted to a vote of the people, such petitions to be verified by the oath

of at least one voter for each sheet of paper on which they are signed, then it shall be submitted to a vote, and may be approved by a majority of the voters voting on the question.

6. In a grant to a company to construct or operate a street railway, the city may reserve the right to purchase on terms as fixed in the grant, and the city may assign that right of purchase to another company, which may carry with it a perpetual franchise.

7. In case the city grants to a street railroad company the right to construct or operate in a street where street railways are now operated, if it shall make a reservation of the right to purchase said road at any time during or at the end of such grant, then no frontage consents shall be required.

8. Street railways owned by the city and operated by the city, or by a company leasing the same, may carry:

(a) Passengers.

(b) Necessary baggage.

(c) Parcels.

(d) Packages.

(e) United States mail, and

(f) May be utilized for such other purpose as the City Council may deem proper.

(g) May be operated with such motive power as the City Council may approve, except steam locomotives.

9. Every city owning, or owning and operating street railways, shall keep separate books of account concerning the same.

10. The act shall not be in force until submitted to a vote, by ordinance of the City Council, and approved by a majority of those voting thereon.

11. The City Council may make reservation of the right to take over a street railway in a grant made to it before the adoption of said act by the people, if the people adopt said act, then such reservation shall be valid and effective for all purposes the same as though made after the adoption of the act.

12. No grant or lease shall exceed twenty years from the making of the same, except in case of the purchase under foreclosure of a

mortgage, when the grant shall be for twenty years from the date of possession given to such purchaser.

This Bill, if it becomes a law, will secure the following advantages to existing street railroads in the city of Chicago:

1st. They can have their rights to the streets which are now expiring, renewed for twenty years, without the necessity of securing any frontage consents, as heretofore required by law, and at the expiration of the twenty years, through an assignment to a new company of the city's right to purchase they may secure an indefinite occupancy.

2nd. They can sell to the city their existing plant and rights in the streets and in such sale have the price thereof enhanced by the value of the earning power of their property, and the unexpired portion of the licenses in the streets, which favor is denied to companies hereafter securing licenses in the streets.

3rd. In case the existing companies sell their property and rights to the City of Chicago, they can have the purchase price enhanced as aforesaid, to which may be added the cost of lowering the tunnels, cost of down town subways, cost of change from cable to electricity, cost of improved equipments, and the cost of other improvements, with ten per cent added to such purchase price, and cost of improvements, represented by city street railway certificates, secured by a trust deed upon the property, which trust deed shall include a grant for twenty years to the purchaser under foreclosure proceeding, from the date of the delivery of possession to such purchaser, with a fixed rate of fare for twenty years.

4th. They can secure a lease from the city of existing lines, at a rental which may only be sufficient to pay the interest on the certificates of indebtedness received by them on the sale as aforesaid, secured by such mortgage.

5th. They can be authorized to carry baggage, parcels, packages, and freight by the city council.

6th. As the city would be without means to pay the certificates of indebtedness at the end of twenty years, there being no require-

ment, in case of a lease, for a sinking fund to pay them, foreclosure proceedings would necessarily follow, and, existing road owning the certificates, would buy at foreclosure proceedings, and secure another twenty years' franchise, with a fixed rate of fare for such twenty years.

7th. Thus, by the lease and the foreclosure proceedings, existing companies would secure virtually a forty years' franchise, with a fixed rate of fare for the full forty years.

8th. Under this Bill the city is practically prevented from getting free from existing companies:

It can only be done by purchasing their property and rights, and paying them outright, which is impossible:

(a) Because it is now indebted to the full limit allowed by law, but even if it were not, it would take a 2-3 affirmative vote to issue bonds to buy existing roads, freed from the mortgage.

(b) The only other way would be for the city to operate the roads: That cannot be done except by the affirmative vote of 2-3 of those voting on the question, which would probably be prohibitory, to say nothing about the financial impossiblity of the city operating the roads under its present straitened financial condition.

I now come to the reasons, in the form of objections, which induced me to pause for ten days before signing this bill:

First. I think, in the language of the veto of 1863, that "in a case of such vast interests, for so long a time, I should exercise my constitutional power to protect the community from measures which the legislature itself, on mature reflection might condemn, and at least give the General Assembly and the people interested an opportunity so to examine and perfect the bill as to remove its objectionable feature, and make the enterprises proposed to be constructed, a blessing and convenience to the people;" and that in the exercise of this constitutional power, I must scrutinize any bill which "passed the Senate through either haste, inadvertence, design or want of due de-

liberation." If I am not mistaken, this bill passed the Senate in its original form, without a dissenting vote. This fact of itself cannot be ignored. I am compelled irresistibly to take it into consideration. Upon the discussion of the bill in the House of Representatives, one amendment after another was considered necessary, and admitted to be necessary, from the very caption of the act to its last section, and so necessary and essential were these amendments that upon the bill being returned to the Senate, it did not venture to oppose or reject a single one of them. If these amendments were necessary at the time the bill was returned to the Senate, they were necessary at the time the bill was passed by the Senate in its original form. If the bill is right now, it was wrong as it originally passed. If the amendments were necessary when the Senate considered the bill upon its return from the House, they were necessary when the Senate first considered it. If the bill was right when it was first considered, it is not right now. If the bill was wrong, then the Senate must have passed it through haste, inadvertence, design or want of due deliberation. I cannot believe that a bad bill was passed by the Senate unanimously, through design. It inevitably follows, in my judgment, that there was either inadvertence, haste or want of due deliberation. This, of itself, is enough to make any citizen pause and reflect, and unquestionably enough to cause the executive to assume that there has not been at any time due deliberation upon the part of the Senate. I have little fear of successful contradiction, when I assert that at no time in the Senate has there been that degree of deliberation desirable and essential in such an important matter. It is a matter of common understanding that one senator after another voted for the original bill without due deliberation. Even if it be conceded, for the sake of argument, that the Senate did give due deliberation to the bill upon its return from the House, then it must surely follow that the Senate, by adopting the House amendments, admitted that the bill as sent by the Senate to the House, contained many errors, and was not a good bill.

It is greatly to be regretted, and in fact it is a state calamity, that a bill of this importance should go through as intelligent and industrious body as the State Senate of Illinois, in such a shape that something like a dozen amendments had to be added to it, in order to make it, in the opinion of the House of Representatives, a good bill. No doubt exists in my mind, that had there not been undue haste in the transactions of the Senate, the manifest errors in the bill, now admitted upon all sides, would have been detected then in the Senate. In using these expressions, I have no desire or intention of reflecting upon either the intelligence or the wisdom of the individual members of the Senate. I believe that the undue haste came about because the members of the Senate were so intensely interested in so many other matters of vital moment, that they simply took the word of the gentlemen who came down from the city of Chicago to advocate this bill. I cannot understand how the gentlemen who did so come down from the city of Chicago, and did so bring about this undue haste, could have thought that this bill was a perfect bill. But in this case also, I have absolutely no reason to cast reflections upon either the motives or the intelligence of the influential body of citizens who did so come down from Chicago. It has been suggested that they came at a time when political conditions were uppermost in the minds of a large body of the voters of Chicago. It certainly is true that a political compaign was immediately before that very time in progress in Chicago, involving the election of the city officers of that great community of two million people. It is a matter of common knowledge that such a campaign in that tremendous community absorbs the attention of the great majority of the electors of that city, to an extent almost equal to the absorption incident to a presidential campaign. Rival candidates for city offices were appealing in every honorable way for the suffrages of their fellow citizens. In the strife and rivalry, they seemed with one accord to have committed themselves to the principle of municipal ownership. Out of this resulted an ap-

parent unanimous demand for some kind of an enabling act. All of this seems to me to have contributed to the haste and want of due deliberation.

In the House also, traces and evidences of the same condition existed. Before the Municipal Corporations Committee of the House, more than one witness testified that he did not fully understand, and indeed had not fully read, the provisions of the bill, if I am correctly informed. Various matters and antagonisms in the House brought about such intense feeling as culminated in a disturbance during a recess of the House, which stopped but little short of an interference with the pursuance by that body of its regular duties. Mutual recriminations were so numerous that distrust grew with the passing of the days, and even with the very hours, until finally men voted for or against the bill, and for or against amendments, with what, as it seems to me, was certainly undue deliberation. So confusing did the situation become in its final stages, that while 90 members of the House voted for the passage of the bill, and 20 voted against it, the remaining members, 42 in number, refrained from voting. While the bill passed with an excess of 14 votes over a constitutional majority, I cannot resist the profound conviction that had due deliberation been exercised, and the regular proceedings of the House not been affected as they were, the bill would never have passed the House in its present form.

Second. I am unable to resist the conviction that the objection and contention, to the effect that under some circumstances an indefinite occupancy might accrue to some street railway corporation under the provisions of the bill as it now stands, is a good contention and objection. What has come to be called the "Trautmann amendment" was inserted by the action of the House, at the close of line 15 of Section 1 of the Senate bill, and reads as follows:

"It shall also be lawful to provide in any such grant, that in case such reserved right be not exercised by the city, and it shall grant a right to another company to operate a street

railway in the streets and parts of streets occupied by its grantee under the former grant, the new grantee shall purchase and take over the street railway of the former grantee upon the terms that the city might have taken it over."

The contention of the opponents of the bill is, that the bill with this amendment attached, provides that no other company may occupy the streets without paying the old company what it asks; that with this amendment, it means that the tracks of the old company may stand, if the city does not override and take possession of the property; that under this amendment, the city cannot allow any other company to occupy the streets where other companies have constructed tracks, unless the new companies purchase such tracks, or until the city sees fit to purchase such tracks; in other words, that it gives the old companies the right to hold their franchises indefinitely; that under the old law, the city can let the franchises to any company which may seek them; that the ordinary condition between lessor and lessee is, that when the lessor leases property for twenty years, the tenant puts on his trade fixtures, and that it is his duty at the end of twenty years, to remove those trade fixtures, and that if he does not so remove them, it is not the fault of the lessor, and that the lessor can go into possession of his own property, and use it as he sees fit; and that this condition should apply to street railway leases, but that that condition is not preserved in this bill, because the amendment provides that the new grantee shall purchase and take over the street railway of the former grantee upon the terms that the city might have taken it over. In this connection, the further objection is made that the language immediately preceding the Trautmann amendment, namely, that when the city shall take over all or part of such street railways, at or before the expiration of the grant, it shall be upon such terms and conditions as may be provided in the grant, and that the fixing of terms and conditions in the grant, is fixing the terms and conditions to be effective

upon the expiration of the grant; in other words, binding upon the men and the city of 1923.

I think there is force in this objection; so much force that the bill is objectionable for the two reasons: First, that an indefinite occupancy may result; and second, that the principle of the Constitution of the State of Illinois, that one generation shall not be bound and rendered helpless by the act of the preceding generation, is violated.

The supporters of the bill contend that the addition of Section 6, which was added to the bill by the House, and in which section the Senate concurred, cures and obviates any evil of this kind. The answer to this contention is that Section 6 simply provides that there shall not be any grant for a period exceeding twenty years from the making of such grant, and does not place any limit upon the length of time during which an existing street railway corporation may hold the franchise, and occupy the street, pending a failure of either the city upon the one hand, or a new grantee upon the other, to take over the property.

Third. I am of the opinion also that the amendment above referred to, called the Trautmann amendment, is defective, in that it provides that the city council may by ordinance provide that the new grantee shall purchase and take over the street railway of the former grantee upon the terms that the city might have taken it over. It is observed that the words street railway mean more than mere tracks. What they mean is not clear.

Fourth. Another objection is in connection with the proposition to issue what are called street railway certificates, to enable the city to take over the property. It is contended that if the city should issue street railway certificates to the extent of say seventy-five million dollars, and if default should be made in the payment of the same, or of interest thereon, and the holders of the certificates should thereupon be forced to foreclose, the property might not bring at foreclosure sale more than a fraction of the total amount of the certificates,

say, for example, fifty million dollars; and that the holders of the certificates would have a claim against the city for the remaining twenty-five million dollars. The answer to this is, upon the part of the supporters of the bill, that the holders of the certificates would have to lose this deficiency. If this be true, purchasers of certificates would unquestionably take this into consideration when purchasing the certificates, and it is not reasonable to suppose that the certificates, under these circumstances, would be purchased by any one. And if this be true, the whole purpose of the law would fail.

Fifth. Another objection that seems to me serious, is the legal effect of the following language, beginning in line 73 of Section 1: "But in no valuation of street railway property for the purpose of any such acquisition except of street railways now operated under existing franchises, shall any sum be included as the value of any earning power of such property, or of the unexpired portion of any franchise granted by said city." The words "except of street railways now operated under existing franchises," of course mean that whenever there shall be a valuation of street railway property for the purpose of acquisition by the city, the street railways now operated under existing franchises have the right to have included a sum for the value of earning power and unexpired portion of franchises. This seems to me to involve very far reaching consequences. The law, however, does not compel the city council to provide that the new grantee shall purchase and take over the street railway of the old grantee; it simply makes it possible for the city council so to provide.

Sixth. It is a very serious objection that Section 3 does not provide that after the city shall become the owner or operator of street railways, all moneys and revenues derived from either the leasing or operating of the street railways shall be kept separate and distinct, and not mingled with any other moneys or funds whatever. This section provides that "every such city owning, or owning and op-

erating, street railways shall keep the books of account for street railways distinct from other city funds, and in such manner as to show the true and complete financial results of such city ownership, or ownership and operation, as the case may be." There are numerous other provisions in this section, concerning the manner of keeping the accounts, and what these accounts shall show, and what reports shall be published, and how the accounts shall be examined; but there is nowhere a provision providing that the moneys and receipts shall be kept separate and distinct. There is accordingly nowhere anything to prevent the city officials of any city which has become the owner of street railways and is leasing them, or which has become the owner of street railways and is operating them, from placing all such moneys and revenues to the credit of the general fund of the corporation, or so intermingling them with the general funds of the corporation, that their identity will be lost, with the result that they will be entirely expended for the ordinary uses and purposes of the city government—unless by some provision of the general city and village act, or some amendment thereto hereafter provided, such separation of the moneys and receipts is, or shall be, required. I have been unable to find any provision in the existing city and village act, which would of itself alone compel such separation and preservation of these moneys or receipts. This, however, is a matter which can be guarded and covered by an amendment to this bill, passed at the next, or a subsequent, session of the general assembly. This will probably be in ample time, as it is not probable that either ownership or municipal operation will come about within the next few years.

To recapitulate, I believe that its opponents are right in claiming that this bill is faulty. I believe that under its provisions the city council of 1903 could make (in the ordinance or grant in 1903) terms in regard to the taking over, in 1923 (either by the city, or by a new grantee,) the property of the street railway, so onerous and burdensome and prohibitory,

that neither the city of 1923, nor the new grantee of 1923, could or would take over the property in which case it would follow, as contended by the objectors, that, as neither the city of 1923, nor the new grantee of 1923, could or would take over the property, (and a vested right would by that time have accrued to the city railway company, to have either the city of 1923, or the new grantee of 1923, take over the property at the terms fixed and provided in the ordinance of 1903,) then inevitably the existing corporation would have the right to continue in the streets of the city perpetually, or at least indefinitely. In other words, there would be a perpetual, or at least indefinite, occupation of the streets of the city of Chicago, and, for that matter, of other cities, under a perfectly legal twenty-year grant—unless the city of 1923 would be willing to abandon all street railway transportation, and to order the tracks and rails taken out of the streets, which is not probable, or indeed possible.

So believing, I would veto this bill, were it not that I have great confidence in the city council of 1903, and greater confidence in the people.

I have no right to assume that the city council of 1903 will do wrong instead of right. I have no right to assume that the people will do wrong instead of right. I have no right to assume that the city council will inevitably use the bad power given by the bill. I have no right to assume that the people at the polls will ratify such bad use of such bad power. were I to assume this, I might just as well assume that all state officers would inevitably do wrong, or that the governor would inevitably do wrong, or that the judges of courts would inevitably do wrong, or that the supreme court of the State of Illinois would inevitably do wrong.

On the contrary, I have great confidence in the councils and greater confidence in the people of the State of Illinois, and I have the absolute right to assume that the councils in their ordinances, and the people in voting upon them, will act with enlightened intelligence,

with due deliberation and with honesty. I assume that honesty will be maintained by the councils and the people, just as I assume that governors and other state officials will be honest, and that courts and the supreme court will be honest.

It has been urged against this bill, by the one man in Illinois who was so courageous as to argue for its veto after it was passed, and so honest that no man in Illinois dare insinuate that his motives were not honest—John H. Hamline—that this bill was passed under the whip and spur of a few newspapers in the city of Chicago. This is true. Worse than that, it was passed by default in the senate and by riot in the house. Intimidation of every possible kind has been resorted to, and within the ten days during which the governor has the right, under the wise and wholesome and hitherto unquestioned veto power of the constitution, to consider and examine a bill, these same newspapers have endeavored to complete their usurpation of governmental functions—their "government by newspapers"—by ridiculing and abusing the executive.

I approve the bill in spite of this clamor, because the real question is, shall the city councils of cities, and the people thereof, be permitted to do a right thing, and not, has the right thing been brought about in the wrong way.

I believe that this bill should be vetoed, were the General Assembly in session, and that then either this bill should be amended, or a new bill passed, without the faults of this bill. But the General Assembly is not in session, although I requested it to take a recess. The calamity of a special session, with its sensations and vexations and delays, and its great expense to the state, probably amounting to a half million dollars, must be avoided if possible.

I wish, however, to distinctly state that if, in the year 1903, the city council of the City of Chicago should do wrong in this matter, and should pass a grant or ordinance imposing terms so manifestly onerous that neither the

city of 1923, nor the grantee of 1923, could take over the property upon the terms imposed, the result consequently being that the grantee of 1903 would have a perpetual occupancy under a legal grant I wish to announce that in that case, upon the passage of the first such ordinance, I will not hesitate to, within twenty-four hours, assemble the general assembly in special session, for the purpose of repealing this act, and providing an act with necessary restrictions.

Very respectfully,

RICHARD YATES,

Governor.